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सं. 36] नई दिल्ली, अगस्त 31—सितम्बर 6, 2008, शनिवार/भाद्र 9—भाद्र 15, 1930
No. 36] NEW DELHI, AUGUST 31—SEPTEMBER 6, 2008, SATURDAY/BHADRA 9—BHADRA 15, 1930

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 26 अगस्त, 2008

का. आ. 2480.—केंद्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उप-धारा (i) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए पश्चिम बंगाल राज्य सरकार, गृह (राजनीतिक) विभाग की अधिसूचना सं. 734-पी.एस. दिनांक 4 जुलाई, 2008 तदन्तर शुद्धिपत्र सं. 738-पी.एस. दिनांक 8 जुलाई, 2008 द्वारा प्राप्त पश्चिम बंगाल सरकार की सहमति से राजस्व आसूचना निदेशालय, कोलकाता द्वारा दिनांक 13 नवंबर, 2007 को नसीम आलम, जो रक्सोल जाने के लिए हावड़ा रेलवे स्टेशन से मिथिला एक्सप्रेस ट्रेन में चढ़ा था के कब्जे से 25,00,500 रुपये के जाली भारतीय मुद्रा नोट जब्त किए गए, जो जीवित कबूतर के पिंजरे में छिपाकर रखे थे, जो नसीर आलम पुत्र नसीर अहमद गांव व डाकखाना-बैसखवाह, पुलिस थाना-गोपालपुर, जिला-पश्चिमी चंपारण, बिहार, शाहिम मिन्हा उर्फ शाहिम अंसारी निवासी गांव-लक्ष्मीपुर, डाकखाना और पुलिस थाना-रक्सोल, पूर्वी चंपारण, बिहार की मदद और गुप्त सहयोग से राजू आलम निवासी-जीतपुर, दिधरियाटोला, जिला-बारा, बीरगंज, नेपाल को सुपुर्द किए जाने थे, के विरुद्ध केंद्रीय अन्वेषण ब्यूरो, नई

दिल्ली में कानूनी कार्रवाई के लिए प्राप्त राजस्व आसूचना निदेशालय, कोलकाता जोनल यूनिट-8, हो ची मिन, सरानी, कोलकाता-700072 की शिकायत सं. डीआरआईएफ सं. 209/कोल/2007 (पी)/486 दिनांक 12-2-2008 के तहत भारतीय दंड संहिता, 1860 (1860 का अधिनियम सं. 45) की धारा 489-बी, 489-सी संपठित 120-बी के अधीन उपरोक्त अपराधों से संबंधित उनकी धोखाधड़ी और किसी अन्य लोकसेवक या व्यक्ति तथा उपर्युक्त अपराधों से संबंधित अथवा संसक्त प्रयत्नों, दुष्प्रेरणों और षड्यंत्रों तथा उसी संव्यवहार के अनुक्रम में अथवा उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध अथवा अपराधों का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण पश्चिम बंगाल राज्य पर करती है।

[सं. 228/63/2008-एवीडी-11]

चंद्र प्रकाश, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 26th August, 2008

S.O. 2480.—In exercise of the powers conferred by sub-section (1) of Section 5 read with Section 6 of the Delhi

Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of West Bengal, Home (Political) Department vide Notification No. 734-P.S. dated 4th July, 2008 followed by Corrigendum No. 748-P.S. dated 8th July 2008, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of West Bengal for investigation of the case relating to seizure of Fake Indian Currency Notes of Rs. 25,00,500 effected on 13th November, 2007 by the Directorate of Revenue Intelligence, Kolkata from the possession of one Nasim Alam, who boarded the train Mithila Express at a Howrah Railway Station for travel to Raxaul, which had been kept concealed in live pigeon cage meant to be delivered to one Raju Alam r/o Jeetpur, Didhriatola, District Bara, Beerganj, Nepal with active aid and connivance of Nasim Alam S/o. Nasir Ahmed R/o Village and Post Office Baikhwa, Police Station Gopalpur, District West Champaran, Bihar, Sahim Minha @ Sahim Ansari r/o village Laxmipur, Post Office and Police Station Raxaul, District East Champaran, Bihar Shaukat Ali r/o Village Laxmipur, Post Office and Police Station Raxaul, District East Champaran, Bihar against whom Central Bureau of Investigation, New Delhi has received a complaint for initiating legal action from the Directorate of Revenue Intelligence, Kolkata Zonal Unit-VIII, Ho Chi Minh, Sarani, Kolkata-700072 vide complaint No. DRI F.No. 209/KOL/2007(P)/486 dated 12-2-2008 for their fraudulent acts and any other public servants or persons, in relation to said offences under Sections 489-B, 489-C read with 120-B of the Indian Penal Code, 1860 (Act No. 45 of 1860) and any other offences committed in the course of the same transaction or emerging out of the same facts or facts in relation to aforesaid seizure.

[No.228/63/2008-AVD-II]

CHANDRA PRAKASH, Under Secy.

नई दिल्ली, 26 अगस्त, 2008

का. आ. 2481.—केंद्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, पश्चिम बंगाल राज्य सरकार, गृह (राजनीतिक) विभाग की अधिसूचना सं. 733-पी.एस. दिनांक 4 जुलाई, 2008 तदन्तर शुद्धिपत्र सं. 747-पी.एस. दिनांक 8 जुलाई, 2008 द्वारा प्राप्त पश्चिम बंगाल सरकार की सहमति से राजस्व आसूचना निदेशालय, कोलकाता द्वारा दिनांक 4 दिसम्बर, 2007 को बांग्लादेशी नागरिक अब्दुल अलीम शरीफ, जिसकी पासपोर्ट सं. क्यू-0389118 है, के कब्जे से मार्कयूज स्ट्रीट कोलकाता में और दिनांक 5-12-2007 को एक अन्य बांग्लादेशी नामतः मौ. राणा उर्फ असलम राजा, जिसकी पासपोर्ट सं. वाई-0312376 है, दोनों से 10-10 लाख रुपए के जाली भारतीय मुद्रा नोट जब्त किए गए, के विरुद्ध केंद्रीय अन्वेषण ब्यूरो, नई दिल्ली में कानूनी कार्रवाई के लिए प्राप्त राजस्व आसूचना निदेशालय, कोलकाता जोनल यूनिट-8, हो ची मिन, सरानी, कोलकाता-700072

की शिकायत सं. डीआरआईएफ सं. 223/कोल/2007 (पी)/483 दिनांक 12-2-2008 के तहत भारतीय दंड संहिता, 1860 (1860 का अधिनियम सं. 45) की धारा 489-बी, 489-सी सपठित 120-बी के अधीन उपरोक्त अपराधों से संबंधित उनकी धोखाधड़ी और किसी अन्य लोकसेवक या व्यक्ति तथा उपर्युक्त अपराधों से संबंधित अथवा संसक्त प्रयत्नों, दुष्प्रेरणों और षड्यंत्रों तथा उसी संव्यवहार के अनुक्रम में अथवा उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध अथवा अपराधों का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण पश्चिम बंगाल राज्य पर करती है।

[सं. 228/64/2008-एवीडी-II]

चंद्र प्रकाश, अवर सचिव

New Delhi, the 26th August, 2008

S.O. 2481.—In exercise of the powers conferred by sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of West Bengal, Home (Political) Department vide Notification No. 733-P. S. dated 4th July, 2008 followed by Corrigendum No. 747-P. S. dated 8th July, 2008, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of West Bengal for investigation of the case relating to seizure of Fake Indian Currency Notes of Rs. 10 lacs each effected on 4th December, 2007 by the Directorate of Revenue Intelligence, Kolkata from the possession of one Abdul Alim Sharif Bangladeshi National having passport No. Q-0389118 at Marquis Street Kolkata and on 15-12-2007 recovered by the Directorate of Revenue Intelligence, Kolkata from another Bangladeshi by the name of Mohd. Rana @ Aslam Raja having passport No. Y-0312376 against whom Central Bureau of Investigation, New Delhi has received a complaint for initiating legal action from the Directorate of Revenue Intelligence, Kolkata Zonal Unit-VIII, Ho Chi Minh, Sarani, Kolkata-700072 vide complaint No. DRI F. No. 223/KOL/2007(P)/483 dated 12-2-2008 for their fraudulent acts and any other public servants or persons, in relation to said offences under Sections 489-B, 489-C read with 120-B of the Indian Penal Code, 1860 (Act No. 45 of 1860) and any other offences committed in the course of the same course of the same transaction or emerging out of the same facts or facts in relation to aforesaid seizure.

[No. 228/64/2008-AVD-II]

CHANDRA PRAKASH, Under Secy.

नई दिल्ली, 27 अगस्त, 2008

का. आ. 2482.—केंद्रीय सरकार एतद्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, श्री गोरंग ए. व्यास, अधिवक्ता को विचारण न्यायालयों और अपील/पुनरीक्षण न्यायालयों

में दिल्ली विशेष पुलिस स्थापना द्वारा संस्थित मामला सं. आरसी. 11 (एस)/2006-मुंबई में अभियोजन अथवा गुजरात राज्य में विधि द्वारा स्थापित न्यायालयों में, जिन पर पूर्वोक्त धारा के उपबंध लागू होते हैं, इस मामले से उद्भूत किन्हीं अन्य विषयों का संचालन करने के लिए विशेष लोक अभियोजक के रूप में नियुक्त करती है।

[सं. 225/64/2007-एवीडी-II]

चंद्र प्रकाश, अवर सचिव

New Delhi, the 27th August, 2008

S.O. 2482.—In exercise of the powers conferred by sub-section (8) of Section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Shri Gaurang A. Vyas, Advocate as Special Public Prosecutor for conducting prosecution in case RC. 11(S)/2006-Mum. instituted by Delhi Special Police Establishment in trial courts and appellate/revisonal courts or any other matters arising out of the case in the courts established by law in the State of Gujarat to which provisions of the aforesaid section apply.

[No. 225/64/2007-AVD-II]

CHANDRA PRAKASH, Under Secy.

नई दिल्ली, 27 अगस्त, 2008

का. आ. 2483.—केंद्रीय सरकार एतद्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, श्री बी. के. प्रसाद, अधिवक्ता को 13वें अपर जिला एवं सेशन जज के न्यायालय, धनबाद में दिल्ली विशेष पुलिस स्थापना द्वारा संस्थित मामला सं. आरसी. 5 (एस)/2004/सीबीआई/एससीबी/लखनऊ में अभियोजन तथा अपील/पुनरीक्षण अथवा किसी अन्य न्यायालय में अपीलों, पुनरीक्षणों और उससे संबंधित अथवा आनुषंगिक किसी अन्य विषय का संचालन करने के लिए विशेष लोक अभियोजक के रूप में नियुक्त करती है।

[सं. 225/14/2007-एवीडी-II]

चंद्र प्रकाश, अवर सचिव

New Delhi, the 27th August, 2008

S.O. 2483.—In exercise of the powers conferred by sub-section (8) of Section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Shri B. K. Prasad, Advocate as Special Public Prosecutor for conducting prosecution in case RC5(S)/04/CBI/SCB/LKO instituted by Delhi Special Police Establishment in the court of Additional District & Sessions Judge, 13th at Dhanbad and appeals, revisions or other matters connected therewith or incidental thereto in the appellate/revision or in any other court.

[No. 225/14/2007-AVD-II]

CHANDRA PRAKASH, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

(केन्द्रीय उत्पाद तथा सीमा शुल्क के मुख्य आयुक्त का कार्यालय)

पुणे, 13 अगस्त, 2008

संख्या 3/2008-सी.शु. (एन.टी.)

का. आ. 2484.—भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, नई दिल्ली, द्वारा दिनांक 1-7-1994 को जारी अधिसूचना संख्या-33/94-सीमा शुल्क (एन. टी.) द्वारा मुझे प्रदत्त अधिकारों का प्रयोग करते हुए मैं, एतद्वारा महाराष्ट्र राज्य में रत्नागिरी जिले के 'मिरजोले' गांव, महाराष्ट्र औद्योगिक विकास निगम, रत्नागिरी को सीमाशुल्क अधिनियम, 1962 (1962 का 52) की धारा 9 के अधीन वेअरहाउसिंग स्टेशन घोषित कर रहा हूँ।

[फा. सं. VIII/48-48/बीएसएल-डब्ल्यू-एसटीएन/मुख्य आयुक्त कार्यालय/पुणे क्षेत्र/08]
रा. ज. बेले, मुख्य आयुक्त

MINISTRY OF FINANCE

(Department of Revenue)

(Office of the Chief Commissioner of Central Excise and Customs)

Pune, the 13th August, 2008

No. 3/2008-Cus. (NT)

S.O. 2484.—In exercise of the powers conferred on me by Notification No. 33/94-Cus. (NT) dtd. 1-7-94 of the Government of India, Ministry of Finance, Department of Revenue, New Delhi, I hereby declare village 'Mirjole, MIDC, Ratnagiri, District Ratnagiri in the State of Maharashtra to be a Warehousing Station, under Section 9, of the Customs Act, 1962 (52 of 1962).

[F. No. VIII/48-48/BSL-W-Stn/CCU/PZ/08]

R. BELEY, Chief Commissioner

(केन्द्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली, 20 अगस्त, 2008

(आयकर)

का. आ. 2485.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 80झ क की उप-धारा (4) के खण्ड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार एतद्वारा भारत के राजपत्र, भाग-II, खण्ड-3, उप-खण्ड (ii) दिनांक 2 सितम्बर, 2006 में प्रकाशित भारत सरकार, वित्त मंत्रालय, राजस्व विभाग की दिनांक 2 सितम्बर, 2006 की अधिसूचना का आ. सं. 3464 में निम्नलिखित संशोधन करती है :-

उक्त अधिसूचना में,

(i) शब्दों और अंकों के उपरान्त "जबकि केन्द्र सरकार ने वाणिज्य एवं उद्योग मंत्रालय के दिनांक 21-4-2006 के पत्र सं.

15/74/2005-आई पी एण्ड आई डी के तहत उक्त औद्योगिक पार्क को अनुमोदित किया है", शब्दों और अंकों "तथा दिनांक 5-12-2006 के पत्र सं. 15/74/2005-आईपी एण्ड आई डी के तहत आगे संशोधित" जोड़ा जाएगा; और

(ii) अनुबंध में, पैरा 1 में, क्रम संख्या (xi) पर अंकों "28-2-2002" के स्थान पर अंकों "28-2-2000" को प्रतिस्थापित किया जाएगा।

[अधिसूचना सं 87/2008/फा. सं 178/82/2005-आयकर नि. I]

पदम सिंह, अवर सचिव

(Central Board of Direct Taxes)

New Delhi, the 20th August, 2008

INCOME-TAX

S.O. 2485.—In exercise of the powers conferred by clause (iii) of sub-section (4) of Section 80-I A of the Income Tax Act, 1961 (43 of 1961), the Central Government hereby makes the following amendment in notification of the Government of India, Ministry of Finance, Department of Revenue, number S.O. 3464, dated the 2nd September, 2006, and published in the Gazette of India, Part II, Section 3, sub-section (ii) dated 2nd September, 2006, namely :—

In the said notification,

(i) After the words and figures "And whereas the Central Government has approved the said industrial park vide Ministry of Commerce & Industry letter No. 15/74/2005-IP&ID dated 21-4-2006", the words and figures "and further modified vide letter No. 15/74/2005-IP & ID dated 5-12-2006" shall be inserted; and

(ii) in the Annexure, in paragraph 1, at serial number (xi), for the figures "28-2-2002" the figures "28-2-2000" shall be substituted.

[Notification No. 87/2008/F. No. 178/82/2005-ITA-1]

PADAM SINGH, Under Secy.

(आर्थिक कार्य विभाग)

नई दिल्ली, 27 अगस्त, 2008

का. आ. 2486.—वित्त मंत्रालय, आर्थिक कार्य विभाग की 30 मई 2008 की समसंख्यक अधिसूचना में अंशतः संशोधन करते हुए समन्वयन और प्रोटोकॉल से संबंधित मामलों के लिए श्री सुबोध कुमार घिल्डियाल, अवर सचिव के स्थान पर श्री एस. कनकाम्बरन, अवर सचिव को सीपीआईओ के रूप में नियुक्त किया जाता है।

[सं. एफ. 1/1/2005-आरटीआई]

सुरजीत सिंह, निदेशक

(Department of Economic Affairs)

New Delhi, the 27th August, 2008

S.O. 2486.—In partial modification of Ministry of Finance, Department of Economic Affairs notification of

even number dated 30 May, 2008, Mr. S. Kanakambaran, Under Secretary is appointed as CPIO in place of Mr. Subodh Kumar Ghildiyal, Under Secretary for matters relating to Coordination and Protocol.

[No. F. 1/1/2005-RTI]

SURJIT SINGH, Director

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 29 अगस्त, 2008

का. आ. 2487.—राष्ट्रीयकृत बैंक (प्रबन्ध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खण्ड 3 के उपखण्ड (1) के साथ पठित, बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उपधारा 3 (ज) और (3-क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा श्री बी. वी. अप्पा राव को, उनकी नियुक्ति की अधिसूचना की तारीख से तीन वर्षों की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, इंडियन ओवरसीज बैंक के निदेशक मण्डल में अंशकालिक गैर-सरकारी निदेशक के रूप में नामित करती है।

[फा. सं. 9/19/2007-बीओ-1]

जी. बी. सिंह, उप सचिव

(Department of Financial Services)

New Delhi, the 29th August, 2008

S.O. 2487.—In exercise of the powers conferred by sub-section 3(h) and (3-A) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 of the Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government hereby nominates Shri B.V. Appa Rao as part-time non-official director on the Board of Directors of Indian Overseas Bank for a period of three years from the date of notification of his appointment or until further orders, whichever is earlier.

[No. F. 9/19/2007-BO-1]

G. B. SINGH, Dy. Secy.

रेल मंत्रालय

(रेलवे बोर्ड)

नई दिल्ली, 25 अगस्त, 2008

का. आ. 2488.—रेल मंत्रालय (रेलवे बोर्ड), राजभाषा नियम, 1976 (संघ के शासकीय प्रयोजनों के लिए प्रयोग) के नियम 10 के उपनियम (2) और (4) के अनुसरण में दक्षिण-पूर्व-मध्य रेलवे के बिलासपुर मंडल के निम्नलिखित रेल कार्यालयों को, जहां 80% से अधिक अधिकारियों/कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करता है।

दक्षिण-पूर्व-मध्य रेलवे (बिलासपुर मंडल)

1. सहायक मंडल इंजीनियर कार्यालय, चाँपा
2. सहायक मंडल विद्युत इंजीनियर (कर्षण) कार्यालय, रायगढ़
3. सिस्टम ट्रेनिंग सेंटर, शहडोल

[सं. हिंदी-2008/रा.भा. 1/12/1]

संसार चंद, निदेशक, (राजभाषा) रेलवे बोर्ड

MINISTRY OF RAILWAYS**(Railway Board)**

New Delhi, the 25th August, 2008

S.O. 2488.—Ministry of Railways (Railway Board), in pursuance of sub Rule (2) and (4) of Rule 10 of the Official Languages (use for official purposes of the union) Rules, 1976, hereby, notify the following Offices of Bilaspur Division of South-East-Central Railway respectively, where more than 80% Officers/Employees have acquired the working knowledge of Hindi :—

South-East-Central Railway (Bilaspur Division)

1. Office of the Assistant Divisional Engineer, Champa
2. Office of the Assistant Divisional Electrical Engineer, (Traction) Raigarh
3. System Training Centre, Shehdol

[No. Hindi-2008/O.L.1/12/1]

SANSAR CHAND, Director (O.L.), Railway Board

सूचना और प्रसारण मंत्रालय

नई दिल्ली, 19 अगस्त, 2008

का. आ. 2489.—इस मंत्रालय की दिनांक 02-01-2007 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, सुश्री मज्जीदा खान, खेत्रीगांव, पूर्वी इम्फाल, जिला मणिपुर को गुवाहाटी सलाहकार पैनल के सदस्य के रूप में नियुक्त करती है।

[फा. सं. 809/3/2006-एफ (सी)]

संगीता सिंह, निदेशक (फिल्म)

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 19th August, 2008

S.O. 2489.—In continuation of this Ministry's Notification of even number dated 02-01-2007 and in exercise

of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to appoint Ms. Mazida Khan, Khetrigaon, Imphal East Dist., Manipur as member of the Guwahati advisory panel of Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

[F. No. 809/3/2006-F(C)]

SANGEETA SINGH, Director (Films)

संचार और सूचना प्रौद्योगिकी मंत्रालय**(दूरसंचार विभाग)****(राजभाषा अनुभाग)**

नई दिल्ली, 26 अगस्त, 2008

का. आ. 2490.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 (यथा संशोधित 1987) के नियम 10(4) के अनुसरण में संचार और सूचना प्रौद्योगिकी मंत्रालय, दूरसंचार विभाग के प्रशासनिक नियंत्रणाधीन निम्नलिखित कार्यालय को, जिसमें 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करती है।

मुख्य महाप्रबंधक दूरसंचार, पंजाब परिमंडल, भा.सं.नि. लि., चंडीगढ़

महाप्रबंधक दूरसंचार, भारत संचार निगम लिमिटेड, पटियाला

[सं. ई. 11016/1/2007-रा.भा. (पार्ट-1)]

सुधा श्रोत्रिया, संयुक्त सचिव (प्रशासन)

MINISTRY OF COMMUNICATIONS AND INFORMATION TECHNOLOGY**(Department of Telecommunications)****(O.L. Section)**

New Delhi, the 26th August, 2008

S.O. 2490.—In pursuance of rule 10(4) of the Official Language (Use for official purposes of the Union), rules, 1976 (as amended-1987), the Central Government hereby notifies the following Office under the administrative control of Ministry of Communications and Information Technology, Department of Telecommunications where of more than 80% of staff have acquired working knowledge of Hindi.

Chief General Manager (Telecom.), Punjab Circle, B.S.N.L., Chandigarh

General Manager Telecom, BSNL, Patiala

[No. E. 11016/1/2007-O.L.(Part-1)]

SUDHA SHROTRIA, Jt. Secy. (Administration)

कोयला मंत्रालय

नई दिल्ली, 29 अगस्त, 2008

का. आ. 2491.—केन्द्रीय सरकार ने कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 7 की उप-धारा (1) के अधीन भारत के राजपत्र भाग II, खंड-3 उपखंड (ii) में तारीख 9 नवम्बर, 2005 को प्रकाशित भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्या का.आ. 4327 तारीख 19 नवम्बर, 2005 द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट परिक्षेत्र की भूमि में कोयला का पूर्वेक्षण करने के अपने आशय की सूचना दी थी।

और, उपरोक्त अधिनियम के अनुच्छेद 8 के अधीन सक्षम प्राधिकारी ने केन्द्रीय सरकार को अपनी रिपोर्ट भेज दी है।

और, केन्द्रीय सरकार का उपरोक्त रिपोर्ट पर विचार करने के पश्चात् और उड़ीसा सरकार से पुनः परामर्श करने के पश्चात् यह समाधान हो गया है कि संलग्न अनुसूची में यथावर्णित 103.00 एकड़ (लगभग) या 41.683 हेक्टर (लगभग) माप वाली भूमि के सभी अधिकार अर्जित किए जाने चाहिए।

अतः अब, केन्द्रीय सरकार कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 9 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए इससे संलग्न अनुसूची में वर्णित 103.00 एकड़ (लगभग) या 41.683 हेक्टर (लगभग) माप वाली भूमि में सभी अधिकार अर्जित किए जाते हैं।

इस अधिसूचना के अधीन आनेवाले प्लान क्रमांक एमसीएल/जीएम (एल/आर एंड आर)/08/01, तारीख 29-02-2008, को जो कलेक्टर, अंगुल (उड़ीसा) के कार्यालय कोयला नियंत्रक का कार्यालय, 1, कौंसिल हाउस स्ट्रीट, कोलकाता या सी एण्ड पी विभाग एमसीएल, जागृति विहार, पोस्ट—जागृति विहार, जिला—संबलपुर 768020 में देखा जा सकता है।

अनुसूची

तालचेर कोलफील्ड (लिंगराज क्षेत्र)

लिंगराज ओसीपी, जिला—अंगुल (उड़ीसा)

सभी अधिकार :—

प्लान सं. एमसीएल/एस ए एम बी/जीएम (एल/आर एंड आर)/08/01 तारीख 29-2-2008

क्र. सं.	मौजा/ ग्राम का नाम*	पटवारी सर्कल/ जेएल नं.*	तहसील /पीएस*	जिला	क्षेत्र हेक्टर में	टिप्पणी
1.	बालुगां खमार	—	तालचेर 125	अंगुल	12.545	(भाग)
2.	मदनमोहनपुर	—	तालचेर 124	अंगुल	29.138	(भाग)
योग 41.683 हेक्टर (लगभग) या 103.00 एकड़ (लगभग)						

* राजस्व अभिलेखा के अनुसार

2. बालुगां खमार (भाग) ग्राम में अर्जित किये जाने वाले भूखंड सं.—

24(भाग), 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 98(भाग), 99, 100, 101(भाग), 124(भाग), 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 231(भाग), 233(भाग), 33/352, 170/353, 169/357, 233/365, 174/366, 174/367, 174/368, 174/369, 174/370, 174/371, 174/372, 174/373, 174/374, 174/375, 174/376, 30/377, 30/378, 30/379, 233/408(भाग), 196/455, 34/518, 172/529, 153/530(भाग), 153/531(भाग), 40/538, 177/541, 46/546(भाग), 197/551, 40/552, 46/564, 40/589, 197/604, 197/631, 46/649(भाग), 40/654, 40/658, 40/659(भाग), 499/660(भाग), 46/663(भाग), 33/669, 46/675(भाग), 169/678, 33/695, 32/696, 352/697, 538/708, 40/717, 40/718, 169/807, 172/827, 177/828 और 33/832.

2. मदनमोहनपुर (भाग) में अर्जित किये जाने वाले भूखंड सं.—

126, 127, 130, 131, 132, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159(भाग), 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 187(भाग), 198, 199, 200, 201, 202, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 261, 266, 267, 268, 269, 270(भाग), 323(भाग), 327, 328(भाग), 329(भाग), 330, 331, 332, 333, 334, 335, 336, 337, 338, 339(भाग), 340(भाग), 416, 445, 446, 447, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 465, 466, 467, 468, 469, 470, 473, 533, 183/551, 183/552, 327/558, 335/560, 183/574, 270/577, 270/578, 270/579, 183/586, 271/590, 183/592, 183/594, 183/595, 183/596, 183/597, 533/598(भाग), 186, 464, 471, 472, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523,

524, 525, 526, 527, 528, 529, 530, 186/544, 186/545, 523/557, 500/566, 502/599, 544/600, 544/601, 544/602, 186/604, 508/611, 186/645, 545/654 और 505/659.

सीमावर्णन-

- क-ख-ग** रेखा बिन्दु -क से आरंभ होती है जो ग्राम मदनमोहनपुर के भूखंड सं. 128 के उत्तर-पूर्व कोने में स्थित है और आगे चलकर पश्चिमी भूखंड सं. 128, 129 और 554 के उत्तरी सीमा से ख बिन्दु पर मिलती है। फिर दक्षिण की ओर चलते हुए ग्राम मदनमोहनपुर के भूखंड सं. 554, 553, 141, 140 और 139 की पश्चिमी सीमा के बिन्दु थ-ग पर मिलती है।
- ग-घ-ङ** रेखा बिन्दु-ग से पश्चिमी की ओर चलते हुए ग्राम मदनमोहनपुर के भूखंड सं. 139 की उत्तरी सीमा के साथ बिन्दु-घ पर मिलती है। रेखा पुनः आगे दक्षिण-पश्चिम की ओर चलते हुए ग्राम-मदनमोहनपुर और बालुंगा खमार संयुक्त सीमा के भूखंड सं. 158, 159, 167, 168, 172, 173, 174, 175 और 176 की दक्षिणी सीमा पर बिन्दु-ङ पर मिलती है।
- ङ-च-छ** रेखा बिन्दु ङ पूर्व सीमा से भूखंड सं. 564 होते हुए दक्षिण की ओर आगे बढ़ती है और पूर्व सीमा के साथ भूखंड सं. 663 और 546 होते हुए मध्य बिन्दु-च पर मिलती है। रेखा बिन्दु पुनः दक्षिण-पूर्व की ओर बढ़ते हुए मदनमोहनपुर ग्राम के भूखंड सं. 100 और 99 की पश्चिम सीमा पर बिन्दु छ पर मिलती है।
- छ-ज-झ** बिन्दु छ से रेखा पश्चिम की ओर आगे बढ़ते हुए भूखंड सं. 99 की पश्चिम सीमा से होते हुए ग्राम बालुंगा खमार और ग्राम मदनमोहनपुर की संयुक्त सीमा से भूखंड सं. 98, 649, 675 से होते हुए आगे बढ़ती हुई ग्राम मदनमोहनपुर के भूखंड सं. 598 मध्य भाग से बिन्दु ज पर मिलती है। और पुनः रेखा दक्षिण की ओर आगे चलकर भूखंड सं. 598 और 531 की पश्चिमी सीमा पर बिन्दु-झ पर मिलती है।
- झ-ञ-ट** रेखा बिन्दु झ से पश्चिम की ओर ग्राम बालुंगा खमार और ग्राम मदनमोहनपुर के सादा सीमा के साथ चलकर बिन्दु ज पर मिलती है फिर रेखा उत्तर की ओर ग्राम मदनमोहनपुर के भूखंड सं. 473 पश्चिम सीमा के साथ चलकर बिन्दु ट पर मिलती है।
- ट-ठ-ड** रेखा बिन्दु ठ से पश्चिम की ओर भूखंड सं. 445 का उत्तरी एवं पश्चिमी सीमा के साथ आगे बढ़ते हुए पूर्व की ओर भूखंड सं. 447 के उत्तरी सीमा से होकर उत्तर की ओर ग्राम मदनमोहनपुर के भूखंड सं. 467, 459, 458, 457, 454 की पश्चिम सीमा के साथ चलकर बिन्दु ठ पर मिलती है फिर रेखा उत्तर पश्चिम की ओर ग्राम मदनमोहनपुर के भूखंड सं. 339 से गुजरते हुए बिन्दु ड पर मिलती है।
- ड-ढ-ण** रेखा बिन्दु ड से उत्तर पश्चिम की ओर आगे बढ़ती है और ग्राम मदनमोहनपुर के भूखंड सं. 340, 328 से गुजरते हुए भूखंड सं. 558, 327 की पश्चिमी सीमा पार कर उत्तर की ओर मुड़ती है और भूखंड सं. 327 की पश्चिम और उत्तरी सीमा से होकर ग्राम मदनमोहनपुर के भूखंड सं. 328 और 323 की पश्चिम सीमा से हो कर बिन्दु ढ पर मिलती है फिर रेखा भूखंड सं. 323, 329, 270 से गुजरते हुए भूखंड सं. 590, 261 की उत्तरी सीमा पर चलकर रेखा दक्षिण की ओर मुड़ती है और भूखंड सं. 261 की पूर्वी सीमा और भूखंड सं. 267, 266, 228, 227 की उत्तरी सीमा पर चलकर फिर दक्षिण की ओर मुड़ती है और भूखंड सं. 227 की पूर्वी सीमा से चलकर आगे भूखंड सं. 219, 218, 202 और 201 की उत्तरी सीमा से हो कर रेखा भूखंड सं. 201 की पूर्वी सीमा के साथ चलकर आगे भूखंड सं. 199, 188 की उत्तरी सीमा से होकर भूखंड सं. 187 से गुजरती है और आगे भूखंड सं. 126 की उत्तरी सीमा के साथ चलकर ग्राम-बालुंगा खमार के भूखंड सं. 24 से गुजरते हुए बिन्दु-ण पर मिलती है।
- ण-त-थ** रेखा बिन्दु ण से उत्तर की ओर ग्राम-बालुंगा खमार के भूखंड सं. 669, 695, 352, 697 और 25 की पश्चिम सीमा से चलकर बिन्दु त पर मिलती है फिर रेखा पूर्व की ओर चलकर भूखंड सं. 25, 27 और 28 की उत्तरी सीमा से होकर ग्राम-बालुंगा खमार के भूखंड सं. 211 से हो कर बिन्दु थ पर मिलती है।
- थ-द-ध** रेखा बिन्दु थ से ग्राम-बालुंगा खमार के भूखंड सं. 179, 180, 181, 182, 183 और 184 की पश्चिम सीमा से चलकर बिन्दु द पर मिलती है फिर रेखा पूर्व की ओर भूखंड सं. 181, 191, 192, 195 और 199 की उत्तरी सीमा से चलते हुए ग्राम बालुंगा खमार के भूखंड सं. 365 और 408 की उत्तरी सीमा पर चलते हुए बिन्दु ध पर मिलती है।
- ध-न-प** रेखा बिन्दु ध से आगे ग्राम-बालुंगा खमार के भूखंड सं. 231, 408, और 233 से गुजरते हुए बिन्दु न पर मिलती है, फिर रेखा ग्राम-बालुंगा खमार के भूखंड सं. 551, 179 और 156 की दक्षिणी सीमा के साथ बढ़ती है पुनः रेखा भूखंड सं. 156, 158 और 159 की पूर्व दक्षिण सीमा के साथ चलकर ग्राम-बालुंगा, खमार के भूखंड सं. 165 की पश्चिम और दक्षिणी सीमा से होकर बिन्दु प पर मिलती है।
- प-फ-ब** रेखा बिन्दु प से आगे भूखंड सं. 531, 530, 124 एवं 659 से गुजरती है फिर ग्राम-बालुंगा खमार के भूखंड सं. 208 की पूर्व सीमा से चलकर बिन्दु फ पर मिलती है। पुनः रेखा ग्राम-बालुंगा, खमार से भूखंड सं. 208, 538, 552 और 40 की दक्षिणी सीमा से चलकर बिन्दु ब पर मिलती है।
- ब-भ-क** रेखा बिन्दु ब से होते हुए ग्राम मदनमोहनपुर के भूखंड सं. 591, 139, 138, 137, 135 और 42 की उत्तरी सीमा से होते हुए बिन्दु भ पर मिलती है और पुनः आगे बढ़ते हुए ग्राम मदनमोहनपुर की उत्तरी और पश्चिमी सीमा पर भूखंड सं. 127 के आरम्भिक बिन्दु-क से मिलती है।

[सं. 43015/25/2004-पी आर आई डब्ल्यू-1]

एम. शहाबुद्दीन, अवर सचिव

MINISTRY OF COAL

New Delhi, the 29th August, 2008

S.O. 2491.—Whereas, by the notification of the Government of India in the Ministry of Coal, Number S.O. 4327 dated the 9th November 2005, issued under sub-section (1) of Section 7 of Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act) and published in the Gazette of India, in part-II, Section-3, sub-section (ii) dated the 19th November 2005, the Central Government gave notice of its intention to acquire lands and rights in the locality specified in the Schedule appended to that notification;

And, whereas, the competent authority in pursuance of Section 8 of the said Act has made his report of the Central Government.

And, whereas, the Central Government after considering the report aforesaid and after re-consulting the Government of Orissa is satisfied that the land measuring 103 acres (approximately) or 41.683 hectares (approximately) in all rights as described in the Schedule appended hereto should be acquired;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 9 of the Coal Bearing Areas (Acquisition and Development), Act, 1957 (20 of 1957), the Central Government hereby declares that the land measuring 103 acres (approximately) or 41.683 hectares (approximately) described in the said schedule are hereby acquired in all rights.

The Plan bearing number MCL/SAMB/GM (L/R&R)/08/01 dated 29th February, 2008 of the area covered by this notification, may be inspected in the Office of Collector, Angul (Orissa) or in the office of the Coal Controller, 1, Council House street, Kolkata, or in the office of the Mahanadi Coalfields Limited (Corporate planning & Project Deptt.), Jagriti Vihar, P.O- Jagriti Vihar, Burla, Dist, Sambalpur - 768020 (Orissa).

SCHEDULE

Talcher Coalfields (Lingraj Area)
Lingraj OCP, District Angul (Orissa)

All Rights

(Plan No. MCL/SAMB/GM (L/R & R)/ 08/01 dated 29th February, 2008)

Sl No.	Name of Mauja/Village *	Patwari Circle/ JL Number*	Tahsil/PS *	District	Area (in hectares)	Remarks
1.	Balugaon, Khamar	—	Talcher-125	Angul	12.545	Part
2.	Madanmohanpur	—	Talcher-124	Angul	29.138	Part

* as per Revenue records.

Total area: 41.683 Hectares (approximately)
Or 103.000 Acres (approximately)

1. Plot numbers to be acquired in village Balugaon Khamar (part):

24(P), 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 98(P), 99, 100, 101(P), 124(P), 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 231(P), 233(P), 33/352, 170/353, 169/357, 233/365, 174/366, 174/367, 174/368, 174/369, 174/370, 174/371, 174/372, 174/373, 174/374, 174/375, 174/376, 30/377, 30/378, 30/379, 233/408(P), 196/455, 34/518, 172/529, 153/530(P), 153/531(P), 40/538, 177/541, 46/546(P), 197/551, 40/552, 46/564, 40/589, 197/604, 197/631, 46/649(P), 40/654, 40/658, 40/659(P), 499/660(P), 46/663(P), 33/669, 46/675(P), 169/678, 33/695, 32/696, 352/697, 538/708, 40/717, 40/718, 169/807, 172/827, 177/828 and 33/832.

2. Plot Numbers to be acquired in village Madanmohanpur Part :

126, 127, 130, 131, 132, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159(P), 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 187(P), 198, 199, 200, 201, 202, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 261, 266, 267, 268, 269, 270(P), 323(P), 327, 328(P), 329(P), 330, 331, 332, 333, 334, 335, 336, 337, 338, 339(P), 340(P), 416, 445, 446, 447, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 465, 466, 467, 468, 469, 470, 473, 533, 183/551, 183/552, 327/558, 335/560, 183/574, 270/577, 270/578, 270/579, 183/586, 271/590, 183/592, 183/594, 183/595, 183/596, 183/597, 533/598(P), 186, 464, 471, 472, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 186/544, 186/545, 523/557, 500/566, 502/599, 544/600, 544/601, 544/602, 186/604, 508/611, 186/645, 545/654 and 505/659.

Boundary description

A-B-C:— Line starts from point 'A' situated at north east corner of plot number 128 of village Madanmohanpur and proceeds towards west along the Northern boundary of plot numbers 128, 129 and 554 meets at point 'B' then

- proceeds towards south along the western boundary of plot numbers 554, 553, 141, 140 and 139 of village Madanmohanpur and meets at point 'C'.
- C-D-E:—** From point 'C' the line proceeds towards west along the northern boundary of plot number 139 of village Madanmohanpur and meets at point 'D', line further proceeds towards south west along the southern boundary of plot numbers 158, 159, 167, 168, 172, 173, 174, 175 and 176 of common boundary of village Madanmohanpur & Balugaon Khamar and meets at point 'E'.
- E-F-G:—** From point 'E' the line passes through Eastern boundary of plot number 564 and proceeds towards south along the eastern boundary and passes through the middle of plot numbers 663 and 546 and meets at middle point 'F', line further proceeds toward south west along the western boundary of plot numbers 100 and 99 of village Madanmohanpur and meets at point 'G'.
- G-H-I:—** From point 'G' the line proceed towards west along the southern boundary of plot number 99, and line passed in the middle of plot numbers 98, 649, 675 and cross the common boundary of village Balugaon Khamar & Madanmohanpur and line proceeds towards in the middle of plot number 598 of village Madanmohanpur and meets at point 'H'. Line further proceeds towards south along the western boundary of plot numbers 598 and 531 and meets at point 'I'.
- I-J-K:—** From point 'I' the line moves towards west along the common boundary of village Balugaon Khamar and Madanmohanpur and meets at point 'J', line further proceeds towards, north along the western boundary of plot number 473 of village Madanmohanpur and meets at point 'K'.
- K-L-M:—** From point 'K' line proceeds towards west along the northern and western boundary of plot number 445 then proceeds towards east along the northern boundary of plot number 447 and then proceeds towards north along the western boundary of plot numbers 467, 459, 458, 457, 454 of village Madanmohanpur and meets at point 'L', line further proceeds towards northwest through plot No. 339 of village Madanmohanpur and meets at point 'M'.
- M.N.O:—** From point 'M' the line proceeds towards north west and passes through plot numbers 340, 328 and further proceeds along the western boundary of plot numbers 558, 327 and turns towards north along the western and northern boundary of plot number 327 and further moves along the western boundary of plot numbers 328 and 323 of village Madanmohanpur and meets at point 'N', line further passes through plot numbers 323, 329, 270 and line further proceeds along the northern boundary of plot numbers 590, 261, further turns towards south along the eastern boundary of plot numbers 261 and further proceeds along the northern boundary of plot numbers 267, 266, 228, 227, line turns towards south along the eastern boundary of plot number 227 and further proceeds along the northern boundary of plot numbers 219, 218, 202, 201 line further proceeds along the eastern boundary of plot number 201 and moves further along the northern boundary of plot numbers 199, 198 then passes through plot number 187 and proceeds further along the northern boundary of plot number 126 of Village Madanmohanpur and passes through plot number 24 of village Balugaon Khamar and meets at point 'O'.
- O-P-Q:—** From point 'O' the line turns towards north and proceeds along the western boundary of plot numbers 669, 695, 352, 697, 25 of village Balugaon Khamar and meets at point 'P' line further proceeds towards east along the northern boundary of plot numbers 25, 27, 28 and passes through plot number 211 of village Balugaon Khamar and meets at point 'Q'.
- Q-R-S:—** From point 'Q' the line proceeds along the western boundary plot numbers 179, 180, 181, 182, 183, 184 of village Balugaon Khamar and meets at point 'R' line further proceeds towards east along the northern boundary of plot numbers 181, 191, 192, 195, 199, line further proceeds along the northern boundary of plot numbers 365, 408 of village Balugaon Khamar and meets at point 'S'.
- S-T-U:—** From point 'S' the line passes through plot numbers 231, 408, 233 of village Balugaon Khamar, and meet at point 'T' line further proceeds along the southern boundary of plot numbers 551, 179, 156 village Balugaon Khamar, line further proceeds along the east southern boundary of plot numbers 156, 158, 159, line further proceeds along the eastern and southern boundary of plot numbers 165 of village Balugaon Khamar and meets at point 'U'.
- U-V-W:—** From point 'U' the line passes through plot numbers 531, 530, 124, 659 and moves along the eastern boundary of plot number 208 of village Balugaon Khamar and meets at point 'V', line further proceeds along the southern boundary of plot numbers 208, 538, 552, 40 of village Balugaon Khamar and meets at point 'W'.
- W-X-A:—** From point 'W' the line passes through the Northern boundary of plot number 42 and through eastern boundary plot Nos. 591, 139, 138, 137 and 135 and meets at point 'X', line further along the northern and western boundary of plot number 127 of village Madanmohanpur and meets at starting point 'A'.

[No. 43015/25/2004/ PRIW-I]

M. SHAHABUDEEN, Under Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

भारतीय मानक ब्यूरो

नई दिल्ली, 21 अगस्त, 2008

का. आ. 2492.—भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिस भारतीय मानक का विवरण नीचे अनुसूची में दिया गया है वह स्थापित हो गया है :-

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक (कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष,	स्थापित तिथि
(1)	(2)	(3)	(4)
1	आईएस/आईईसी 60079-19 : 2006 विस्फोटी पर्यावरण : भाग 19 उपकरणों की मरम्मत, ओवरहॉल और उद्धार करना	-	31 जुलाई, 2008

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़ चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : ईटी 22/टी-54]

पी. के. मुखर्जी, वैज्ञा. एफ एवं प्रमुख (विद्युत तकनीकी)

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

BUREAU OF INDIAN STANDARDS

New Delhi, the 21st August, 2008

S.O. 2492.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed has been issued :

SCHEDULE

Sl. No.	No. & Year of the Indian Standards	No. & Year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
	IS/IEC 60079-19 : 2006 Explosive Atmospheres : Part 19 Repair, Overhaul and Reclamation	—	31 July 2008

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: ET 22/T-54]

P. K. MUKHERJEE, Sc. F & Head (Electrotechnical)

नई दिल्ली 21 अगस्त, 2008

का. आ. 2493.—भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिस भारतीय मानक का विवरण नीचे अनुसूची में दिया गया है वह स्थापित हो गया है :-

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक (कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष,	स्थापित तिथि
(1)	(2)	(3)	(4)
1	आईएस 62264-2 : 2004 उद्यम-नियंत्रण पद्धति संघटन भाग 2 वस्तु मॉडल गुण	-	31 जुलाई 2008

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : ईटी 18/टी-106]

पी. के. मुखर्जी, वैज्ञा. एफ एवं प्रमुख (विद्युत तकनीकी)

New Delhi, the 21st August, 2008

S.O. 2493.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed has been issued :

SCHEDULE

Sl. No.	No. & Year of the Indian Standards	No. & Year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS/IEC 62264-2 : 2004 Enterprise-Control System Integration Part 2 Object Model Attributes	—	31 July 2008

Copy of these Standard are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref : ET 18/T-106]

P. K. MUKHERJEE, Sec. F & I-head (Electrotechnical)

नई दिल्ली, 21 अगस्त, 2008

का. आ. 2494.—भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिस भारतीय मानक का विवरण नीचे अनुसूची में दिया गया है वह स्थापित हो गया है :-

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक (कों) की संख्या वर्ष और नये शीर्षक	भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष,	स्थापित तिथि
(1)	(2)	(3)	(4)
1	आईएस 62264-1 : 2003 उद्यम-नियंत्रण पद्धति संघटन भाग 1 मॉडल और पारिभाषित शब्दावली	—	31 जुलाई 2008

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों नई दिल्ली, कोलकाता, चण्डीगढ़ चेन्नई, मुम्बई तथा शाखा कार्यालयों अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : ईटी 18/टी-105]

पी. के. मुखर्जी, वैज्ञा. एफ एवं प्रमुख (विद्युत तकनीकी)

New Delhi, the 21st August, 2008

S.O. 2494.— In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. & Year of the Indian Standards	No. & Year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS/IEC 62264-1 : 2003 Enterprise-Control System Integration Part 1 Models Terminology	—	31 July 2008

Copy of these Standard are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref : ET 18/T-105]

P. K. MUKHERJEE, Sc. F & Head (Electrotechnical)

नई दिल्ली, 25 अगस्त, 2008

क्र. आ. 2495.— भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिए गए मानक (कों) में संशोधन किया गया/किये गये हैं :-

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक (कों) की संख्या वर्ष और शीर्षक	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1	आईएस 15518 1 भाग 1 : 2004 तापदीप्ति लैम्पों के लिए सुरक्षा अपेक्षाएँ : भाग 1 घरेलू और ऐसे ही सामान्य प्रकाश प्रयोजनों के लिए टंगस्टन फिलामेंट लैम्प की संशोधन संख्या 2	2 फरवरी 2008	31 मार्च 2008

इस भारतीय संशोधन की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों नई दिल्ली, कोलकाता, चण्डीगढ़ चेन्नई, मुम्बई तथा शाखा कार्यालयों अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : ईटी/23/टी-71]

पी. के. मुखर्जी, वैज्ञा. एफ एवं प्रमुख (विद्युत तकनीकी)

New Delhi, the 25th August, 2008

S.O. 2495.— In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendment to the Indian Standards, particulars of which are given in the Schedule hereto annexed has been issued :

SCHEDULE

Sl. No.	No. & Year of the Indian Standard	No. & Year of the Amendment	Date from which the Amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 15518 (Part 1): 2004 Safety requirements for Incandescent Lamps : Part 1 Tungsten Filament Lamps for Domestic and Similar General Lighting Purposes	2, February 2008	31 March 2008

Copy of this Amendment are available with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: ET 23/T-71]

P. K. MUKHERJEE, Sc. F & Head (Electrotechnical)

नई दिल्ली, 27 अगस्त, 2008

का. आ. 2496.— भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिस भारतीय मानक का विवरण नीचे अनुसूची में दिया गया है वह स्थापित हो गया है :-

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक (कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आईएस/ आई ई सी 61558-1: 1997 पॉवर ट्रांस-फार्मों, पॉवर आपूर्ति इकाइयां और ऐसी इकाइयों की सुरक्षा भाग 1 सामान्य अपेक्षाएं और परीक्षण	-	31 जुलाई 2008

इस भारतीय मानक की एक प्रति भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों नई दिल्ली, कोलकाता, चण्डीगढ़ चेन्नई, मुम्बई तथा शाखा कार्यालयों अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : ईटी/16/टी-54]

पी. के. मुखर्जी, वैज्ञा. एफ एवं प्रमुख (विद्युत तकनीकी)

New Delhi, the 27th August, 2008

S.O. 2496.— In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies the Indian Standards, to the Indian Standards particulars of which is given in the Schedule hereto annexed has been issued :

SCHEDULE

Sl. No.	No. & Year of the Indian Standards	No. & Year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS/IEC 61558-1 : 1997 Safety of Power Transformers, Power Supply Units and Similar Part 1 General Requirement and Tests	—	31 July, 2008

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: ET 16/T-54]

P. K. MUKHERJEE, Sc. F & Head (Electrotechnical)

नई दिल्ली, 27 अगस्त, 2008

का. अ. 2497.— भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिस भारतीय मानक का विवरण नीचे अनुसूची में दिया गया है वह स्थापित हो गया है : —

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक (कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आईएस 12075 : 2008 56 मि.मी. और उससे अधिक ऊँचाई की शाफ्ट के साथ घूर्णी विद्युत मशीनों का यांत्रिक कंपन—कंपन तीव्रता का मापन, मूल्यांकन और सीमा (पहला पुनरीक्षण)	—	31 जुलाई, 2008

इस भारतीय मानक की एक प्रति भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : ईटी 15/टी-40]

पी. के. मुखर्जी, वैज्ञ. एफ एवं प्रमुख (विद्युत तकनीकी)

New Delhi, the 27th August, 2008

S.O. 2497.— In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies the Indian Standards, to the Indian Standards, particulars of which is given in the Schedule hereto annexed has been issued :

SCHEDULE

Sl. No.	No. & Year of the Indian Standards	No. & Year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS12075 : 2008 Mechanical Vibration of Rotating Electrical Machines with Shaft Heights 56 mm and Higher—Measurement, Evaluation and Limits of Vibration Severity (First Revision)	—	31st July, 2008

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref : ET 15/T-40]

P. K. MUKHERJEE, Sc. F & Head (Electro-technical)

नई दिल्ली, 28 अगस्त, 2008

का. आ. 2498.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के नियम (4) के उप नियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेन्सों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिये गए हैं :—

अनुसूची

क्रम सं.	लाइसेंस सं. जून 2008	चालू तिथि	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक व संबंधित भारतीय मानक
(1)	(2)	(3)	(4)	(5)
1.	8935604	26-05-2008	मैसर्स प्रसाद ओवरसीज, भवानी निकेतन विस्तार, नांगल रोड, विष्णु ऑयल मिल के पास, औद्योगिक क्षेत्र, झोटवाडा, जयपुर-302 012 (राजस्थान)	10086 : 1982 मॉल्ड्स फॉर यूज इन टैस्ट ऑफ सीमेण्ट एण्ड कंक्रीट
2.	8936505	26-05-2008	मैसर्स गिरधारी लाल रमेश कुमार, 46, गोल बाजार, गंगानगर, (राजस्थान)	1417 : 1999 स्वर्णाभूषणों की हॉलमार्किंग
3.	8940088	28-05-2008	मैसर्स तिजारिया पोलीपाईप्स लिमिटेड, ए-130 (ई), रोड नं. 9 डी, विश्वकर्मा औद्योगिक क्षेत्र, जयपुर-302 013 (राजस्थान)	12818 : 1992 अनप्लास्टिसाईज्ड पीवीसी स्क्रीन एण्ड केसिंग पाइप्स फॉर बोर/ ट्यूबवैल
4.	8936808	30-05-2008	मैसर्स बंसल इलेक्ट्रिकल्स, ए-34, मनु विहार, रोड नं. 9, एफ 2 के पीछे, विश्वकर्मा औद्योगिक क्षेत्र, जयपुर-302 013 (राजस्थान)	398 (भाग 2) : 1996 ए सी एस आर

(1)	(2)	(3)	(4)	(5)
5.	8943195	10-06-2008	मैसर्स विद्युत टैलेटोनिक्स लिमिटेड, एच-108-109, रीको औद्योगिक क्षेत्र, हीरावाला, जयपुर-303 012 (राजस्थान)	694 : 1990 पीवीसी इन्सुलेटेड केबल्स
6.	8939208	11-06-2008	मैसर्स भिवाडी सिलिण्डर्स प्रा.लि., ई-925, 1200 एवं 1201, औद्योगिक क्षेत्र, भिवाडी-301 019 जिला-अलवर, (राजस्थान)	8737 : 1995 वाल्च फिटिंग्स फॉर यूज विथ लिव्किफाईड पेट्रोलियम गैस (एलपीजी) सिलिण्डर्स ऑफ मोर दैन 5 लीटर वॉटर कैपेसिटी
7.	8941595	17-06-2008	मैसर्स ईश्वर मेटल इण्डस्ट्रीज, एफ-79 बी, रोड नं. 6, विश्वकर्मा औद्योगिक क्षेत्र, जयपुर-302 013 (राजस्थान)	398 (भाग 4) : 1994 ए ए ए सी
8.	8941801	18-06-2008	मैसर्स गौरव पेट्रोकैम (प्रा.) लिमिटेड, 165-ए, झोटवाडा औद्योगिक क्षेत्र, झोटवाडा, जयपुर-302 012 (राजस्थान)	2494 (भाग 1) : 1994 वी-बैल्ड्स-एण्डलैस वी-बैल्ड्स फॉर इण्डस्ट्रियल परपज
9.	8942496	19-06-2008	मैसर्स प्रकाश बेवरेजेस, कृष्णा नगर, पाडीव, सिरोही, (राजस्थान)	14543 : 2004 पैकेज्ड ड्रिंकिंग वॉटर
10.	8942904	20-06-2008	मैसर्स श्री विनायक प्लास्टो कैम (प्रा.) लि., एफ-551, रोड नं. 6, विश्वकर्मा औद्योगिक क्षेत्र, जयपुर-302013 (राजस्थान)	7098 (भाग 1) : 1988 एक्स एल पी ई इन्सुलेटेड पीवीसी केबल्स
11.	8943094	20-06-2008	मैसर्स आर.के. पाइप, गांव-नारसाखेडी, पोस्ट -बाडी, जिला निम्बाहेडा-312 601 (राजस्थान)	458 : 2003 प्रोकास्ट कांक्र्रीट पाइप्स
12.	8943401	25-06-2008	मैसर्स रोमेश पॉवर प्रोडक्ट्स प्रा.लि., बी-123, रोड नं. 9 (ए), विश्वकर्मा औद्योगिक क्षेत्र, जयपुर-302 012 (राजस्थान)	7098 (भाग 1) : 1988 एक्स एल पी ई इन्सुलेटेड पीवीसी केबल्स

[सं. सी एम डी/13 : 11]

पी. के. गम्भीर, उप महानिदेशक (मुहर)

New Delhi, the 28th August, 2008

S.O. 2498.—In pursuance of sub-regulation (5) of regulation 4 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies the grant of licence particulars of which are given in the following schedules.

SCHEDULE

Sl. No.	Licence No. (CM/L-)	Operative Date	Name and Address of the Licensee	Article/Process Covered by the licences and the relevant IS : Designation
(1)	(2)	(3)	(4)	(5)
01	8935604	26-05-2008	M/s. Prasad Overseas Bhawani Niketan Vistar Nangal Road, Near Vishnu Oil Mill Industrial Area, Jhotwara, Jaipur-302 012 Rajasthan	10086 : 1982 Moulds for use in test of Cement & Concrete
02	8935605	26-05-2008	M/s. Girdhari Lal Ramesh Kumar 46-Gole Bazar Ganganagar Rajasthan	1417 : 1999 Hallmarking of Gold Jewellery
03	8940088	28-05-2008	M/s. Tijaria Polypipes Limited A-130 (E), Road No. 9D Vishwakarma Industrial Area Jaipur-302 013 Rajasthan	12818 : 1992 Unplasticized PVC Screen & Casing Pipes for Bore/ Tubewell
04	8936808	30-05-2008	M/s. Bansal Electrical A-34, Manu Vihar, Behind Road No. 9F 2 Vishwakarma Industrial Area Jaipur-302 013 Rajasthan	398 (Part 2) : 1996 ACSR
05	8943195	10-06-2008	M/s. Vidyut Teletronics Limited H-108-109 RIICO Industrial Area, Hirawala Jaipur-303 012 Rajasthan	694 : 1990 PVC Insulated Cables
06	8939208	11-06-2008	M/s. Bhiwadi Cylinders Pvt. Ltd. E-925, 1200 & 1201 Industrial Area, Bhiwadi-301 019 Distt. Alwar Rajasthan	8737 : 1995 Valve Fitting for use with Liquefied Petroleum Gas (LPG) Cylinders of more than 5 Ltr. Water Capacity
07	8941595	17-06-2008	M/s. Ishwar Metal Industries F-79 B, Road No. 6 Vishwakarma Industrial Area Jaipur-302 013 (Rajasthan)	398 (Part 4) : 1994 AAAC
08	8941801	18-06-2008	M/s. Gaurav Petrochem (P) Limited 165-A, Jhotwara Industrial Area Jhotwara Jaipur-302 012 Rajasthan	2494 (Part 1) : 1994 V-Belts-Endless V-Belts for Industrial Purposes
09	2842496	19-06-2008	M/s. Prakash Beverages Krishna Nagar, Padeev Sirohi Rajasthan	14543:2004 Packaged Drinking Water
10	8942904	20-06-2008	M/s. Shree Vinayak Plasto Chem (P) Ltd. F-551, Road No. 06 Vishwa Karma Industrial Area Jaipur-302 013 Rajasthan	7098 (Part 1) : 1988 XLPE Insulated PVC Cables
11	8943094	20-06-2008	M/s. R.K. Pipe Village : Narsakheri Post : Bari Nimbahera-312 601 Chittorgarh Rajasthan	458 : 2003 Precast Concrete Pipes
12	8943401	25-06-2008	M/s. Romesh Power Products Private Limited B-123, Road No. 09(A) Vishwa Karma Industrial Area Jaipur-302 013 Rajasthan	7098 (Part 1) : 1988 XLPE Insulated PVC Cables

[No. CMD/13 : 11]

P. K. GAMBHIR, Dy. Director General (Marks)

नई दिल्ली, 29 अगस्त, 2008

का. आ. 2499.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 6 के उप-विनियम (3) के अनुसारण में भारतीय मानक ब्यूरो एतद्वारा नीचे अनुसूची में दिए गये उत्पादों का मुहरांकन शुल्क अधिसूचित करता है :-

अनुसूची

भारतीय मानक सं.	भाग	अनु.	वर्ष	उत्पाद	इकाई	न्यूनतम मुहरांकन शुल्क बड़े पैमाने पर	छोटे पैमाने पर	इकाई दर स्लैब 1	इकाई दर स्लैब 2	इकाई दर स्लैब 2	इकाई दर स्लैब 2	इकाई दर स्लैब 2	प्रचालन तिथि
453	0	0	1983	डबल एक्टिंग स्प्रिंग हिन्स	100 अद्व	52100.00	44300.00	7.00	सभी	-	-	-	18-06-2008
1919	0	0	1982	सोडियम हाइड्रोसल्फाइड	1 एम.टी	55500.00	47200.00	100.00	600	50.00	600	25.00	18-06-2008
4572	0	0	1992	पोलिएमाइड मल्टीफिलामेंट रस्से	1 एम.टी	39600.00	33700.00	290.00	150	145.00	सभी	-	18-06-2008
8674	0	0	1989	पोलिइथाइलीन रस्से	1 एम.टी	38700.00	32900.00	180.00	180	90.00	सभी	-	18-06-2008
15550	3	0	2004	गहराई से पानी निकालने के हथबरमें भाग-3 हैंडपंप सब असेम्बल्स	1 मूल्यांकन	54200.00	46100.00	हैंड मूल्यांकन 4.40 रु. प्रति इकाई, हैंडल मूल्यांकन 2.20 रु. प्रति इकाई, सिलिंडर मूल्यांकन 2.80 रु. प्रति इकाई, वाल्व मूल्यांकन 1.00 रु. प्रति इकाई,					18-06-2008

[सं. के प्र वि/13 : 10]

पी. के. गम्भीर, उप महानिदेशक (मुहर)

New Delhi, the 29th August, 2008

S.O. 2499.—In pursuance of sub-regulation (3) of regulation 6 of the Bureau of Indian Standards (Certification) Regulations 1988, the Bureau of Indian Standards, hereby notifies the Marking fee for the products given in the schedule :

SCHEDULE

IS No.	Part	Sec.	Year	Product	Units	Minimum Marking Fee Large Scale	Small Scale	Unit Rate Slab-1	Unit Rate Slab-2	Unit in Slab-2	Remaining	Effective Date
453	0	0	1983	Double Acting Spring Hinges	100 piece	52100.00	44300.00	7.00	All	-	-	18-06-2008
1919	0	0	1982	Sodium Hydrosulphite	1 M.T.	55500.00	47200.00	100.00	600	50.00	600	25-00
4572	0	0	1992	Polyamide Multifilament Ropes	1 M.T.	39600.00	33700.00	290.00	150	145.00	All	18-06-2008
8674	0	0	1989	Polyethylene Ropes	1 M.T.	38700.00	32900.00	180.00	180	90.00	All	18-06-2008
15550	3	0	2004	Deepwell Handpumps Components	1 Assy	54200.00	46100.00	Head Assy. Rs. 4.40 per unit, Handle Assy. Rs. 2.20 per unit, Cylinder Assy. Rs. 2.80 per unit, Valve Assy. Rs. 1.00 per unit				18-06-2008

[No. CMD/13 : 10]

P. K. GAMBHIR, Dy. Director General (Marks)

नई दिल्ली, 29 अगस्त, 2008

का. आ. 2500.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के नियम 4 के उपनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :-

अनुसूची

जून 2008 में स्वीकृत किये लाइसेंस

क्रम संख्या	लाइसेंस संख्या	लाइसेंसी का नाम तथा पता	उत्पाद का नाम तथा आई एस	अनुज्ञप्ति स्वीकृत करने की तिथि
1	2	3	4	5
1.	7847501	मैसर्स शेट मंगलदास कालिदास, सुथरवाडा के पास, मोडासा, डिस्ट्रिक्ट साबरकांटा	स्वर्ण एवं स्वर्ण मिश्र धातुओं के आभूषणों/ शिल्पकारी शुद्धता एवं मुहरांकन आई एस 1417 : 1999	02-06-2008
2.	7847602	मैसर्स शिवम आरनामैट प्रा.लि. 1236, लुहारनी पोल, एम जी हवेली रोड, मॉनक चौक, अहमदाबाद-1	स्वर्ण एवं स्वर्ण मिश्र धातुओं के आभूषणों/ शिल्पकारी शुद्धता एवं मुहरांकन आई एस 1417 : 1999	02-06-2008
3.	7848095	मैसर्स पी एम ज्वैलर्स, 1, सिद्धी चैम्बर्स, जावेरी चैम्बर्स के सामने, वाघन पोल, रतनपोल, अहमदाबाद-1	स्वर्ण एवं स्वर्ण मिश्र धातुओं के आभूषणों/ शिल्पकारी शुद्धता एवं मुहरांकन आई एस 1417 : 1999	04-06-2008
4.	7848297	मैसर्स पटेल अंबालाल सोमनाथ सरकार ज्वैलर्स, 202 से 205, 207 बी के हाउस, स्टेट बैंक आफ सौराष्ट्र, सी जी रोड, नवरंगपुरा, अहमदाबाद-9	स्वर्ण एवं स्वर्ण मिश्र धातुओं के आभूषणों/ शिल्पकारी शुद्धता एवं मुहरांकन आई एस 1417 : 1999	04-06-2008
5.	7848907	मैसर्स ब्रमेचा इमपैक्स प्रा.लि., एच जी 27 से 40, नवमंगलम काम्पलैक्स, अग्रसेन भवन के सामने, सिटी लाईट, मेन रोड, सूरत	स्वर्ण एवं स्वर्ण मिश्र धातुओं के आभूषणों/ शिल्पकारी शुद्धता एवं मुहरांकन आई एस 1417 : 1999	06-06-2008
6.	7849303	मैसर्स रत्नमाला ज्वैलर्स, 5, महाकालेश्वर शॉपिंग सेंटर, मेमनगर, अहमदाबाद	स्वर्ण एवं स्वर्ण मिश्र धातुओं के आभूषणों/ शिल्पकारी शुद्धता एवं मुहरांकन आई एस 1417 : 1999	09-06-2008
7.	7850284	मैसर्स गंगा ज्वैलर्स, प्लाट नंबर 200, डिस्ट्रिक्ट शॉपिंग सेंटर, सेक्टर 21, गांधी नगर 382 021	स्वर्ण एवं स्वर्ण मिश्र धातुओं के आभूषणों/ शिल्पकारी शुद्धता एवं मुहरांकन आई एस 1417 : 1999	16-06-2008
8.	7850991	जगदीश ज्वैलर्स, 2/2, उंडी शेरी, टावर बाजार, आनंद 388001	स्वर्ण एवं स्वर्ण मिश्र धातुओं के आभूषणों/ शिल्पकारी शुद्धता एवं मुहरांकन आई एस 1417 : 1999	17-06-2008
9.	7850385	मैसर्स किरण ज्वैलरी प्रा. लि., 4/5/105, गोविंद चकला, स्टेशन रोड, विसनगर, मेहसाना	स्वर्ण एवं स्वर्ण मिश्र धातुओं के आभूषणों/ शिल्पकारी शुद्धता एवं मुहरांकन आई एस 1417 : 1999	16-06-2008
10.	7852187	मैसर्स गुणग्रह ज्वैलर्स, यू जी 8, सुहागन कॉम्पलैक्स, हनुमान जी मंदिर के सामने, नेहरू पार्क, वस्त्रापुर, अहमदाबाद-15	स्वर्ण एवं स्वर्ण मिश्र धातुओं के आभूषणों/ शिल्पकारी शुद्धता एवं मुहरांकन आई एस 1417 : 1999	20-06-2008

1	2	3	4	5
11.	7848196	मैसर्स रवि ज्वैलर्स, 230-231, पोडर आरकडे, खांड बाजार, वरछा रोड, सूरत	चांदी एवं चांदी मिश्र धातुओं के आभूषणों/ शिल्पकारी शुद्धता एवं मुहरांकन आई एस 2112 : 2003	04-06-2008
12.	7851286	मैसर्स वाईब्रेंट डैकोर इंडिया प्रा.लि., तीसरी मंजिल, शिरोमणी काम्पलैक्स ओशन पार्क के सामने, नेहरूनगर क्रास रोड के पास, सैटेलाईट, अहमदाबाद	डैकोरेटिव थर्मोसैटिंग सिन्थेटिक रेसिन बॉन्डिड लैमिनेटेड शीट आई एस 2046 : 1995	18-06-2008
13.	7850789	मैसर्स पटेल केनवुड प्रा.लि., प्लॉट नंबर 100 से 103 टिंबर मार्केट जी आई डी सी, भारूच 393 002.	वुड पार्टिकल बोर्ड मिडियम डैनसिटी जनरल परपस आई एस 3087 : 2005	17-06-2008
14.	7847497	सिरामिक्स इंडिया, 343, जी आई डी सी करमपुरा डी रोड लेन 35, बडौदा	लो बोलटेज स्वीचगियर तथा कंट्रोल गियर आई एस 13947 : पार्ट 3	02-06-2008
15.	7847905	मैसर्स देवी हेल्थ केयर, 78 79 गुरु कृपा इंडस्ट्रियल एस्टेट, सफारी कॉम्पलैक्स के पीछे, बैसटन सूरत	पैकेजबंद पेयजल आई एस 14543 : 2004	04-06-2008
16.	7848705	मैसर्स हैरी इंडस्ट्रीज, 182 6.7 जी आई डी सी नरोडा, अहमदाबाद	पैकेजबंद पेयजल आई एस 14543 : 2004	06-06-2008
17.	7849101	मैसर्स भूमि बिबरेज, प्लॉट नंबर 148 149, उषा नगर, भरत नगर के पास, भाथेना अंजना, सूरत	पैकेजबंद पेयजल आई एस 14543 : 2004	09-06-2008
18.	7850688	स्वज हेल्थ केयर तथा मैनेजमेंट, पहली मंजिल, सत्संग अपार्टमेंट, कोठी सालटवाडा रोड, बडौदा	पैकेजबंद पेयजल आई एस 14543 : 2004	17-06-2008
19.	7852086	मैसर्स देवैड बिबरेज, 85, 86 नासरवनजी एस्टेट, प्राईमा सिनेमा के पीछे, किनारी भाथेना रोड, सूरत	पैकेजबंद पेयजल आई एस 14543 : 2004	20-06-2008
20.	7854692	मैसर्स हरिकृपा ज्वैलर्स, 767, चौकसी बाजार गाँव, खेड़ा 387411	स्वर्ण एवं स्वर्ण मिश्र धातुओं के आभूषणों/ शिल्पकारी शुद्धता एवं मुहरांकन आई एस 1417 : 1999	24-06-2008

[सं. सी एम डी/13:11]

पी.के. गम्भीर, उप महानिदेशक (मुहर)

New Delhi, the 29th August, 2008

S.O. 2500.—In pursuance of sub-regulation (5) of the regulation 4 of the Bureau of Indian Standards (Certification Regulation, 1988, the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedules :—

SCHEDULE**Granted Licences for the Month of June 2008**

S. No.	Licence No.	Name of the firm and address	IS Number & Product	Date of Grant
1	7847501	Seth Mangaldas Kalidas NR Sutharwada Modasa Dist SK 383315	Gold and Gold Alloys, Jewellery/Artefacts-Fineness and Marking IS 1417: 1999	02-06-2008
2	7847602	Shivam Ornaments Pvt. Ltd. 1236 Luharni Pole MG Haveli Road, Manek Chowk Ahmedabad-380 001	Gold and Gold Alloys, Jewellery/Artefacts-Fineness and Marking IS 1417: 1999	02-06-2008
3	7848095	P M Jewellers I, Siddhi Chambers, Opposite Zaveri Chambers Vaghan Pole, Ratan Pole Ahmedabad-380 001	Gold and Gold Alloys, Jewellery/Artefacts-Fineness and Marking IS 1417: 1999	04-06-2008
4	7848297	Patel Ambalal Somnath Sarkar Jewellers 202 to 205, 207 B K House, Opp. State Bank of Saurashtra, C G Road Navrangpura Ahmedabad 380 009	Gold and Gold Alloys, Jewellery/Artefacts-Fineness and Marking IS 1417: 1999	04-06-2008
5	7848907	P Barnecha's Impex Pvt Ltd. H G 27 to 40 Navmangalam Complex Opp. Agrasen Bhavan City Light Main Road Surat	Gold and Gold Alloys, Jewellery/Artefacts-Fineness and Marking IS 1417: 1999	06-06-2008
6	7849303	Ratnamala Jewellers 5, Mahakaleshwar Shopping Centre, Memnagar, Ahmedabad	Gold and Gold Alloys, Jewellery/Artefacts-Fineness and Marking IS 1417: 1999	09-06-2008
7	7850284	Ganga Jewellers Plot No. 200, District Shopping Centre, Sector-21 Gandhinagar 382021	Gold and Gold Alloys, Jewellery/Artefacts-Fineness and Marking IS 1417: 1999	16-06-2008
8	7850991	Jagdish Jewellers 2/2, Undi Sheri, Tower Bazar, Anand 388001	Gold and Gold Alloys, Jewellery/Artefacts-Fineness and Marking IS 1417: 1999	17-06-2008
9	7850385	Kiran Jewellery Pvt. Ltd. 4/5/105, Govind Chakla, Station Road Visnagar Mehsana	Gold and Gold Alloys, Jewellery/Artefacts-Fineness and Marking IS 1417: 1999	16-06-2008
10	7852187	Ghungharu Jewellers UG-8, Suhagan Complex, Opp. Hanumanji Temple, Nehru Park, Vastrapur, Ahmedabad 15	Gold and Gold Alloys, Jewellery/Artefacts-Fineness and Marking IS 1417: 1999	20-06-2008
11	7848196	Ravi Jewellers 230-231, Poddar Arcade, Khand Bazar, Varachha Road, Surat	Silver and Silver Alloys, Jewellery/Artefacts-Fineness and Marking IS 2112: 2003	04-06-2008

(1)	(2)	(3)	(4)	(5)
12	7851286	Vibrant Decor (India) Pvt. Ltd. 3rd Floor Shiromani Complex Opp. Ocean Park NR Nehrunagar Cross Road, Satellite Road Ahmedabad	Decorative Thermosetting Synthetic Resin Bonded Laminated Sheets IS 2046 : 1995	18-06-2008
13	7850789	Patel Ken wood Pvt. Ltd. Plot No. 100 to 103 Timber Market GIDC Bharuch 393002	Wood Particle Boards (Medium density) for general purposes IS 3087 : 2005	17-06-2008
14	7847497	M/s. Ceramics India 343 GIDC Makarpura D-Road Lane, 35 Vadodara	Low-voltage Switch gear and Controlgear-part 3 IS 13947 : Part 3	02-06-2008
15	7847905	Devi Health Care 78/79 Guru Krupa Industrial Estate Behind Safari Complex Bhestan Surat	Packaged Drinking Water (other than Packaged Natural Mineral Water) IS 14543 : 2004	04-06-2008
16	7848705	Harry Industries 182, 6-7 GIDC Naroda	Packaged Drinking Water (other than Packaged Natural Mineral Water) IS 14543 : 2004	06-06-2008
17	7849101	Bhumi Beverages Plot No. 148/149 Usha Nagar, Near Bharatnagar Bhathena Anjana Surat	Packaged Drinking Water (other than Packaged Natural Mineral Water) IS 14543 : 2004	09-06-2008
18	7850688	Sahaj Health Care & Management First Floor Satsang Appt. Kothi Salatwada Road, Vadodara	Packaged Drinking Water (other than Packaged Natural Mineral Water) IS 14543 : 2004	17-06-2008
19	7852086	Deved Beverages 85-86 Nasarvanji Estate Behind Prime Cinema Kinnari-Bhathena Road Surat	Packaged Drinking Water (other than Packaged Natural Mineral Water) IS 14543 : 2004	20-06-2008
20	7854692	Harikrupa Jewellers 767 Choksi Bazar, Village, Kheda 387411	Gold and Gold Alloys, Jewellery/Artefacts-Fineness and Marking IS 1417 : 1999	24-06-2008

[No. CMD/13 : 11]

P. K. GAMBHIR, Dy. Director General (Marks)

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 27 अगस्त, 2008

का.आ. 2501.—जबकि पेट्रोलियम एवं खनिज पाइपलाइन (भूमि में उपयोगकर्ता के अधिकार का अधिग्रहण) अधिनियम, 1962 (1962 का 50) की धारा 3 की उप-धारा (1) के अंतर्गत दिनांक 12-9-2007 के का. आ. संख्या 2693 के द्वारा पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय, भारत सरकार की अधिसूचना के माध्यम से केन्द्र सरकार ने नुमलीगढ़ रिफाइनरी लिमिटेड को प्राकृतिक गैस आपूर्ति के लिए दुलियाजान से नुमलीगढ़ जिला गोलाघाट तक असम गैस कम्पनी लिमिटेड को परिवहन हेतु पाइपलाइन बिछाने के प्रयोजन हेतु उस अधिसूचना के साथ संलग्न अनुसूची में निर्दिष्ट भूमियों में उपयोगकर्ता के अधिकार के अधिग्रहण की अपनी मंशा की घोषणा की थी।

और जबकि उक्त अधिनियम की धारा 6 की उप-धारा (1) के अंतर्गत सक्षम प्राधिकारी ने सरकार को रिपोर्ट प्रस्तुत की थी।

और जबकि इसके आगे केन्द्र सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात इस अधिसूचना के साथ संलग्न अनुसूची में निर्दिष्ट भूमियों में उपयोगकर्ता के अधिकार के अधिग्रहण का निर्णय लिया है।

अथ, अतः उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का उपयोग करते हुए, केन्द्र सरकार एतद्वारा यह घोषणा करती है कि इस अधिसूचना के साथ संलग्न अनुसूची में निर्दिष्ट उक्त भूमियों में उपयोगकर्ताओं के अधिकार को पाइपलाइनों को बिछाने के लिए अधिग्रहीत कर लिया गया है।

और केन्द्र सरकार उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का उपयोग करते हुए यह निदेश देती है कि उक्त भूमियों में उपयोगकर्ता का अधिकार इस घोषणा के प्रकाशन की तिथि से केन्द्र सरकार में विहित होने के बजाय असम गैस कम्पनी लिमिटेड में विहित होगा जोकि किसी भी ऋणभार से मुक्त होगा।

अनुसूची

जिला : शिवसागर

राज्य : असम

क्रम सं.	गाँव का नाम	सर्कल	मौजा	पट्टा सं.	दाग सं.	क्षेत्रफल		
						बीघा	कट्टा	लुसा
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	गोहॉई गाँव	डिमो	बोकोटा	मियादी पट्टा सं. 73	670	0	1	9
				मियादी पट्टा सं. 185	671	0	0	17
				मियादी पट्टा सं. 227	673	0	1	4
				मियादी पट्टा सं. 73	859	0	0	5
				मियादी पट्टा सं. 190	862	0	2	19
				मियादी पट्टा सं. 250	864	0	2	0
कुल :						1	3	14

[सं. 12016/69/2006-ओ एन जी-III]

आर. एस. सिकंदर, अधर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 27th August, 2008

S.O. 2501.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No. 2693 dated 12-09-07 under sub-section (1) of Section 3 of the Petroleum & Mineral Pipeline (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the Right of User in the lands specified in the schedule appended to that notification for the purpose of laying pipeline for transportation of natural gas from Duliajan to Numaligarh Refinery Limited (NRL), Golaghat by Assam Gas Company Limited.

And whereas the Competent Authority has under sub-section (1) of the Section 6 of the said Act, submitted report to the Government.

And further whereas the Central Government has, after considering the said report decided to acquire the Right of User in the lands specified in the schedule appended to this notification.

Now, therefore in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the Right of User in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipelines:

And further in exercise of power conferred by sub-section (4) of the Section 6 the Central Government directs that the Right of User in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Assam Gas Company Limited free from all encumbrances.

SCHEDULE

District - Sivasagar

State - Assam

Sl. No.	Name of Village	Circle	Mouza	Patta No.	Dag No.	Area			Remark
						B	K	L	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1.	Gohain gaon	Demow	Bokota	PP No. - 73	670	0	1	9	
				PP No.- 185	671	0	0	17	
				PP No.-227	673	0	1	4	
				PP No.- 73	859	0	0	5	
				PP No.- 190	862	0	2	19	
				PP No.-250	864	0	2	0	
Total area =						1	3	14	

[No. 12016/69/2006-ONG-III]

R. S. SIKDAR, Under Secy.

नई दिल्ली, 4 सितम्बर, 2008

का.आ. 2502.—भारत सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 1065(अ) तारीख 3 जुलाई, 2008 द्वारा, उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में गेल (इण्डिया) लिमिटेड द्वारा राजस्थान राज्य में मंसारामपुरा से बी. पी. सी. एल. पाइपलाइन परियोजना तक तरल पेट्रोलियम गैस के परिवहन के लिए पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और उक्त राजपत्रित अधिसूचना की प्रतियां जनता को तारीख 28-7-2007 तक उपलब्ध करा दी गई थीं;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन भारत सरकार को अपनी रिपोर्ट दे दी है;

और पाइपलाइन बिछाने के संबंध में जनता से कोई आपत्ति प्राप्त नहीं हुई।

और भारत सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित हैं, उस में उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

और, भारत सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;

और, भारत सरकार, उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निर्देश देती हैं कि पाइपलाइन बिछाने के लिए भूमि में उपयोग का अधिकार, इस घोषणा के प्रकाशन की तारीख को, भारत सरकार में निहित होने के बजाए, पाइपलाइन बिछाने का प्रस्ताव करने वाली गेल (इण्डिया) लिमिटेड में निहित होगा और तदुपरि, भूमि में ऐसे उपयोग का अधिकार, इस प्रकार अधिरोपित निबंधनों और शर्तों के अधीन रहते हुए, सभी धिल्लंगमों से मुक्त, गेल (इण्डिया) लिमिटेड में निहित होगा।

अनुसूची

जिला	तालुका	गांव	सर्वे नं.	क्षेत्रफल (हेक्ट. में)
जयपुर	जयपुर	मंसारामपुरा	72	00.0601
			73	0.1770
			74	0.0934
			74/378	0.0934
			75	0.0930
			76	0.0630
			76/384	0.0616
		कुल		0.6415

[सं. एल-14014/9/08-जी.पी.]

के. के. शर्मा, अवर सचिव

New Delhi, the 4th September, 2008

S.O. 2502.—Whereas by notification of Government of India in the Ministry of Petroleum and Natural Gas number S.O. 1065(E) dated 3rd July, 2007 issued under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), the Government of India declared its intention to acquire the right of user in the land specified in the Schedules appended to those notifications for the purpose of laying pipeline for transportation of liquefied petroleum gas from Mansarampura to BPCL pipeline project in the State of Rajasthan by GAIL (India) Limited;

And whereas copies of the said Gazette notification were made available to the public on 28-07-2007;

And whereas the Competent Authority has, under sub-section (1) of Section 6 of the said Act, submitted its report to Government of India;

And, whereas no objections were received from the public to the laying of the pipeline;

And whereas the Government of India after considering the said report and on being satisfied that the said land is required for laying the pipelines, has decided to acquire the Right of User therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, Government of India hereby declares that the Right of User in the land specified in the Schedule is hereby acquired for laying the pipeline;

And, further, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, Government of India hereby directs that the Right of User in the land for laying the pipeline shall, instead of vesting in Government of India, vest, on the date of the publication of the declaration, in GAIL (India) Limited, subject to the terms and conditions so imposed, free from all encumbrances.

SCHEDULE

Distt.	Taluka	Village	Survey No.	Area to be acquired (in Hect.)
Jaipur	Jaipur	Mansarampura	72	00.0601
			73	0.1770
			74	0.0934
			74/378	0.0934
			75	0.0930
			76	0.0630
			76/384	0.0616
		Total		0.6415

[No. L-14014/9/08-G.P.]

K. K. SHARMA, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 29 मई, 2008

का. आ. 2503.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इण्डियन इन्स्टीट्यूट ऑफ पल्स रिसर्च के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट (संदर्भ सं. 10/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-05-2008 को प्राप्त हुआ था।

[सं. एल-42012/8/2000-आई.आर.(सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 29th May, 2008

S.O. 2503.—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central Government hereby publishes the award (Ref. No. 10/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the Industrial dispute between the management of Indian Institute of Pulse Research and their workman, which was received by the Central Government on 29-05-2008.

[No. L-42012/8/2000-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**BEFORESRI R. G. SHUKLA PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT SHRAM BHAWAN
A.T.I. CAMPUS, UDYOG NAGAR, KANPUR**

Industrial Dispute No. 10 of 2001

In the matter of the dispute between

Sri Ram Kishore,

C/o Sh. Rajendra Prasad Shukla 115/193 A, 2 Maswanpur
Rawatpur, Kanpur.**AND**

The Director,

Indian Institute of Pulse Research G. T. Road, Kalyanpur,
Kanpur.**AWARD**

1. The Central Government, MOI, New Delhi, vide notification No. L-42012/8/2000 IR(C-II), dated 25-6-2001 has referred the following Dispute for adjudication to this tribunal.

“Whether the action of the management of India Institute of Pulse Research, Kalyanpur, Kanpur, in terminating the employment of Sri Ram Kishore w.e.f. 1-8-1999 is legal and justified? If not, to what relief the worker is entitled to?”

2. The case of the workman in short that is the worker has been employed to perform the work of permanent nature under the premises of the opposite party on it is also

pleaded that the workman was paid wages at the end of the month by the opposite party as approved by the Central Government at the minimum of the rate. It is also pleaded by the workman that with a view to avoid statutory dues, the opposite party attached the work and with a licensed contractor. It has also been pleaded by the workman that he was continuing in the services from before the induction of Contractor. Workman is employee of the opposite party. Workman performed the work connected with agriculture and the attendance of the workman was used to be marked by the officers of the Managements. The production of the opposite party was also used to be sold out to the customers. It has also been pleaded by the workman that he rendered continuous service of 240 days of till he was removed from the service of the opposite party w.e.f. 1-8-1999 in gross violation of provisions of Industrial Disputes Act, 1947. Several fresh hands were inducted by the opposite party but he was not afforded any opportunity of his re-employment. Opposite party has also violated the provisions of rules of nature and social justice by not regularising him in the service. On the basis of above it has been prayed that the workman may be reinstated in the service with full back wages, consequential benefits and seniority.

3. The opposite party has filed reply wherein it has been denied by the opposite party that there exist any relationship of employer and employee between the contesting parties. The workman never remained in direct employment of the opposite party nor the workman was ever paid wages by the opposite party directly. In fact they were the employees of the contractor who used to supervise the work of the workman. It is also denied that there exist any valid industrial dispute. Workman is not a workman as defined under I. D. Act, nor the opposite party is an industry. Management has emphatically denied having engaged the workman in the employment in any capacity whatsoever nor he was ever issued any appointment letter by the opposite party. It has also been pleaded that for giving regular and permanent employment, there is prescribed recruitment rules and no authority of the opposite party is competent to make appointment defying recruitment rules. Since the workman was never in the employment, question of terminating his services from any date does not arise. Moreover, provisions of Industrial Disputes Act are also not applicable to the workman. On the basis of above, it has been prayed that the claim of the workman be rejected being devoid of merit, baseless and misleading.

4. After exchange of pleading between the parties the contesting parties adduced oral as well as documentary evidence in support of their respective cases.

5. A bare perusal of the record would go to show that in the instant case repeated dates for hearings arguments were granted by the tribunal to the representative for the workman but on each occasion on one pretext or the other he sought adjournments and

avoided to conclude the case. Again further date of hearing was fixed in the case and when the case was called out representative for the workman found absent and thereafter the argument advanced by the representative for the management were heard. After the hearing was over in the case, representative for the workman appeared before the tribunal and submitted that he had certain representation before the Ministry seeking transfer of the case from this tribunal but a perusal of the record shows that no such application is available on the record of the case. There is also no order received from the appropriate Government in this regard. Therefore, the tribunal is not inclined to believe the contention of the representative for the workman and the same stands rejected. Having considered long duration of the pendency of the instant case, the tribunal also rejected the adjournment application.

6. Tribunal has considered the arguments advanced in the case at length and have also gone carefully through the case file. It is the own case that the workman was made the employee of the contractor and it is the contractor who used to make payment of wages. The contention of the workman to be effect that he was working much before the induction of the alleged contractor of which he is alleged to be the employee cannot be accepted by the tribunal as no documentary evidence is available on the record of the case to substantiate the claim of the workman that he was in the employment of the opposite party much before the induction of the alleged contractor.

7. The argument of the opposite party appears to be sound that there exist no relationship of master and servant between them and the so called workman, therefore, there appears no valid industrial dispute between the contesting parties. In the absence any cogent evidence in support of the claim of the workman, it is concluded that there never existend any relationship of master and servant between the parties and therefore, the alleged workman cannot be held to be a workman within the definition of the workman as given under the Act. If it is so rest issue becomes infructuous as raised by the alleged workman in his statement of claim and therefore, need no consideration.

8. In the end it is concluded for the foregoing that the instant case is not a valid industrial dispute as the claimant has palpably failed to establish that he never remained in active employment of the opposite party or that he was ever issued any appointment letter, or he was ever paid his wages by the opposite party or his services have been terminated by the opposite party. Therefore, question of breach of provisions of the Industrial Disputes Act, 1947, by the opposite party does not arise.

9. For the reasons discussed above, it is held that since instant case is not a valid industrial dispute between the parties, alleged claimant cannot be held to be entitled for any relief as claimed by him. Reference is therefore, answered accordingly against the claimant and in favour of the opposite party.

R. G. SHUKLA, Presiding Officer

नई दिल्ली, 5 अगस्त, 2008

का. आ. 2504.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मै. जेट एअरवेज लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, श्रम न्यायालय सं.-11, नई दिल्ली के पंचाट (संदर्भ सं. 23/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-8-2008 को प्राप्त हुआ था।

[सं. एल-11012/81/1999-आई.आर.(सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 5th August, 2008

S.O. 2504.—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central Government hereby publishes the award (Ref. No. 23/2000) of the Central Government Industrial Tribunal-cum-Labour Court, No. II, New Delhi now as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of M/s. Jet Airways Ltd. and their workmen, which was received by the Central Government on 5-8-2008.

[No. L-11012/81/1999-IR(C-1)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM- LABOUR COURT-II, NEW DELHI

Presiding Officer : R. N. Rai I.D. No. 23/2000

In the matter of :

Sh. Sanjay Jisoria & 6 Ors.
C/o Airport Employees Union (Regd.),
3, Vithal Bhai Patel House, Rafi Marg,
New Delhi-110001.

—Claimant

Versus

M/s. Jet Airways (I) Limited,
C/o. Taj Aircateries, IGI, Gurgaon
Road, New Delhi-110037.

—Respondents

The Ministry of Labour by its letter No. L-11012/81/1999-IR(C-1) Central Government, dated 22-2-2000 has referred the following point for adjudication:

The point runs as hereunder :—

“Whether the action of the management of M/s. Jet Airways (India) Limited in terminating the services of S/Shri Sanjay Jisorias, S/o. Sh. Suraj Bhan, Laxman Singh, S/o. Narayan Singh, Rakesh Kumar S/o. Dev Raj,

Kumar Gupta S/o. Sh. M. L. Gupta, Sanjay Yadav S/o. Sh. Hans Rana, Satish Kumar, S/o. Sh. Raghunath & Sh. Raj Kumar, S/o. Sh. Uday Ram is legal and justified? If not, to what relief the workmen are entitled to and from what date?"

The case of the workman is that they joined on different dates in 1996 and 1997. They worked continuously under the management. They were never given bonus and other facilities. To give the access in Taj Hotel premises where the respondent business operation were going on. Some workmen were given Identity Cards. The Identity Cards of Sh. Sanjay Jisoria, Sh. Laxman Singh and Sh. Rakesh Kumar have been filed as W1/1, W1/2 & W1/3.

That the workmen while working with the respondent management used to fill up some forms/papers/chart of the establishment. That the workman demanded legal benefits. Their services were terminated illegally in violation of Section 25 F & G of the ID Act, 1947.

The case of the management is that for loading and unloading of materials into the vehicles. The management has engaged certain persons purely on temporary basis. The claimant Sh. Sanjay Jisoria and other happen to be among such temporary workers engaged by the management who worked intermittently for short duration for loading and unloading of the meals and materials to and from the vehicles.

That it was decided to assign the loading and unloading of meals etc. to the contractor and to make him responsible for loading and unloading of the materials and meals to the flight.

Sh. Laxman Singh was engaged on temporary basis. Sometimes in the month of November, 1996, he worked for four months and he left the service at his own accord. He again joined as temporary employee only in the month of February, 1998. Thus, he has not put in 240 days service as claimed by him.

That similarly the other workmen Sh. Rakesh Kumar, Raj Kumar, Sanjay were engaged on 28-11-1996, 27-08-1997 and 17-09-1998 respectively.

That the workmen were given temporary assignment when they were available. They have never worked continuously for 240 days in a calendar year or 240 days preceding the date of their termination.

The workmen applicants have filed rejoinder. In the rejoinder they have reiterated the averments of their claim statement and have denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard argument from both the sides and perused the papers on the record.

It was submitted from the side of the workmen that they worked from 1996 to 1998 continuously. It was further

submitted that they were engaged on monthly consolidated wages of Rs.2,000.

It was submitted from the side of the management that they were engaged purely on temporary basis for loading and unloading purposes and payment to them was made on the same day as per their work.

From perusal of the record it becomes quite obvious that all the workman were dis-engaged on 12-6-1998. The workman Sh. Sanjay Yadav was engaged from 17-9-1997, Satish Kumar from 27-12-1997, and Sh. Raj Kumar from 24-12-1996, so there is no question of their performing duties for 240 days as these three workmen have been removed on 12-06-1998. Sh. Raj Kumar Gupta joined on 27-08-1997 and his services have been terminated on 12-06-1998, so he has not performed 240 days work if his alleged period is considered.

As per the claim statement Sh. Sanjay Jisoria, Laxman, Rakesh Kumar were engaged in 1996. Their services have also been terminated on 12-06-1998.

All the workmen have filed photocopy of Identity Cards and photocopy documents from paper no. 6 to 14. These documents are not on the letter head of the management. No value can be attached to it. The management has filed original register regarding engagement and payment to these workmen.

It becomes quite obvious from perusal of the register that only four workmen were engaged. It also becomes quite obvious from perusal of the register that the workmen were made payment on the same day. On 22-11-1996 Sh. Sanjay, Jaspal Singh, Dan Raj and Anand Kumar were engaged and payment to them of Rs. 80 was made on 27-11-1996. Sh. Dan Raj, Sanjay and Sh. Deepak Kumar were engaged and they were made payment of Rs. 80 on the same day.

Similarly on 13-02-1997 Sh. Jashvir Singh, Bahadur Singh, Ram Kumar, Sh. Raman were engaged and they were made payment of Rs. 80.

From perusal of payment made on 08-09-1997, 09-09-1997 and 10-09-1997 it becomes quite evident that the name of these workmen did not appear on these three dates.

From perusal of the register it also becomes quite obvious that 4-5 workmen were engaged for loading and unloading purposes. These workmen were not engaged regularly. On 22-11-1997 Sh. R.K. Sharma, Prem Narain and Dinesh were engaged. There is no workman of the claim statement on this date.

From perusal of the register it becomes quite obvious that the workmen were engaged temporarily for a particular day and payment was made on that day. On 22-11-1997 Sh. Satish Kumar and Raj Kumar were engaged. The two registers filed by the management disclose that different

workmen were engaged on different dates and payment was made on the same day.

The workmen have not filed any proof of their working for 240 days. It appears that 4 - 5 persons were engaged for loading and unloading purposes but the name of these seven workmen does not appear on all the dates. On some dates there are 4 workmen and on some dates there are 3 or 5 workmen but the names are different. As such these workmen have not performed 240 days work during the period of their temporary engagement.

It is settled law that the working of 240 days cannot be proved by mere assertion of the affidavit. The workmen have to prove working days by cogent documentary evidence. The workmen are seven in number. The management has engaged on some dates 3 workmen, on some dates 4 workmen and on some dates 5 workmen.

From perusal of the original register regarding payment and engagement of the workmen it becomes quite obvious that other workmen have been also engaged on various dates. These workmen have been engaged only on few dates and not continuously. The claimants have failed to prove that they have worked for 240 days. There is no violation of Section 25 F of the ID Act, 1947.

It is not the case of the workmen that the management has violated section 25 F, G & H of the ID Act, 1947.

The reference is replied thus:

The action of the management of M/s. Jet Airways (India) Limited in terminating the services of S/Shri Sanjay Jisoria, S/o. Sh. Suraj Bhan, Laxman Singh S/o. Narayan Singh, Rakesh Kumar S/o. Dev Raj, Raj Kumar Gupta S/o. Sh. M.L. Gupta, Sanjay Yadav S/o. Sh. Hans Rana, Satish Kumar, S/o. Sh. Raghunath and Sh. Raj Kumar S/o. Sh. Uday Ram is legal and justified. The workmen applicants are not entitled to get any relief as prayed for.

The award is given accordingly.

Dated: 23-7-008

R.N. RAI, Presiding Officer

नई दिल्ली, 8 अगस्त, 2008

का. आ. 2505.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मै. एअर इंडिया लि. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय सं. 1, चेन्नई के पंचाट (संदर्भ सं. 22/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-8-2008 प्राप्त हुआ था।

[सं. एल-11012/5/2008-आई.आर. (सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 5th August, 2008

S.O. 2505.—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central Government hereby publishes the award (Ref. No. 22/2008)

of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chennai now as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of M/s. Air India Ltd. and their workmen, which was received by the Central Government on 5-8-2008.

[No. L-11012/5/2008-IR(C-1)]
SNEH LATA JAWAS, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Friday, the 11th July, 2008

Present : K. Jayaraman Presiding Officer

Industrial Dispute No. 22/2008

[In the matter of the dispute for adjudication under clause(d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Air India Ltd. and their workman]

BETWEEN

Sri T.C. Sekar : Ist Party/Petitioner

AND

The Manager Air India, Chennai : 2nd Party/Respondent

APPEARANCE

For the Petitioner : M/s. S. Vaidyanathan

For the Management : Exparte

AWARD

The Central Government, Ministry of Labour vide its Order No. L-11012/5/2008 [IR(CM-I)] dated 28-4-2008 referred the following Industrial Dispute to this tribunal for adjudication.

the schedule mentioned in that order is :

“Whether the action of the management of Air India Ltd., Chennai (now NACIL) in dismissing Sri T.C. Sekar, Asstt. Officer—Security from the service w.e.f. 25-3-2003 is justified and legal? To what relief the concerned workmen entitled?”

2. After the receipt of the Industrial Dispute, this Tribunal has numbered it as ID 22/2008 and issued notices to both sides. The petitioner appeared through his Advocate and filed Claim Statement and on the other hand even after two notices the Respondent has not appeared and he was set ex-parte on 23-06-2008.

3. The petitioner in his Claim Statement stated as follows :

The petitioner joined Air India as Security Guard on 11-05-1983 and in view of his sincere work he was given

out of turn promotion as Sr. Security Guard and subsequently as Security Inspector and then as Sr. Security Inspector and lastly as Asstt. Officer (Security) in the year 1999. The petitioner has served nearly 20 years in an unblemished record. While so, he was served with a Charge Sheet dated 12-12-2001 for certain alleged charges framed against him in terms of Certified Standing Orders. An enquiry was conducted against him. In the enquiry, the Enquiry officer found him guilty of charges and the Disciplinary Authority passed final order on 25-03-2003 dismissing him from service. After passing of the order, the Management preferred a petition before the National Industrial Tribunal, Mumbai for approval of its action on 25-03-2003 due to certain disputes relating to service conditions of Airline employees pending before the Tribunal. But subsequently on 19-03-2006 i.e. after 3 years an order was passed by the Tribunal in the application filed by the Management for withdrawing the said Approval Application but the Tribunal rejected the application and the matter was posted for hearing on 19-01-2007. But, subsequently the Air India Management took a similar plea and prayed for the disposal of Approval Application as infructuous/nonest due to recent judgement of the High Court, Mumbai dated 17-04-2007. After that the National Tribunal accepted the plea of the Management and disposed of the Approval Application accordingly, but permitted the petitioner to raise an Industrial Dispute under Section-10 of the ID Act. Hence, the petitioner raised the dispute challenging the wrongful termination. On the material date in question, just before midnight a passenger bound for Flight Sq 409 was apprehended by Air-Intelligence Unit, Customs Officials for carrying contraband goods in the form of around 440 Star Toitoises inasmuch as the petitioner was on duty on that day alongwith others. Hence, the Sr. Manager (Security) issued a memo dated 16-07-2001 suspecting that the petitioner only cleared the said baggage reportedly containing the contraband goods with malafide intention, though, the petitioner sought permission to break off duty at 2000 hrs. on that day. Even though the petitioner denied the allegation, the Enquiry Committee appointed by the Competent Authority commenced the proceedings on 24-04-2002 and concluded the same on 09-07-2002. The whole process of enquiry commenced with the delay of over six months from the date of incident. The report of the Enquiry Committee is not based on evidence on record. The bundle of contradictions both in timings and the narration of events on the date of incident brought out by various witnesses and the Enquiry Committee has not analysed and failed to analyse the deposition of Management witnesses and documentary evidences in the proper perspective and rendering a perverse finding. Without seeing the infirmities the Enquiry Committee in a routine manner proposed a punishment of dismissal. The Enquiry Committee has also not considered the sincere service, devotion and performance of the petitioner highlighted by the records.

Even though there are clear evidences to show that Mr. Vijay Anand and Mr. Sainath also were in the X-ray machine during the material time in question, the Enquiry Committee has failed in his duties to thoroughly analyse the above aspects but held him guilty purely on surmises and suspicious. Therefore, there is a clear discrimination on the part of the Management not only from the stage of initiating of Disciplinary Proceedings but also in the examination of witnesses by the Enquiry Committee. The final order was passed on perverse finding of the Enquiry Committee. Hence, for all these reasons the Petitioner prays that the action of the Management, Air India in dismissing him from service w.e.f 06-06-2003 pursuant to the order dated 25-03-2003 is illegal and consequently he prays this Tribunal to reinstate him in service with backwages, continuity of service and consequential relief.

4. As against this as I have already pointed out, the Respondent remained absent and he was set ex-parte.

Point for determination are :

- (i) Whether the action of the Respondent Management in dismissing the petitioner is justified and legal?
- (ii) To what relief the petitioner is entitled to?

Point No. 1

5. The petitioner has filed Proof of Affidavit and also filed 41 documents which are marked as EX.W1 to EX.W41. The petitioner in his Proof of Affidavit has stated what are all he has mentioned in his Claim Statement. He has also filed all the documents given in the Enquiry Committee proceedings. The learned counsel for the petitioner contended that the Enquiry Committee without going through the evidences has come to a wrong conclusion that the petitioner is guilty of the charges framed against him. They have not followed the principles of natural justice and has given a perverse finding. The Enquiry Committee in a routine manner proposed the punishment of dismissal and the final order awarding the punishment of dismissal was also passed altogether by a different authority who is not competent to impose the punishment in this case as per the Certified Standing Orders. Therefore, the order passed by the authorities is perverse without any jurisdiction. The petitioner is sincere security man and he was imposed punishment without any reasonable cause. The Enquiry Committee has failed to analyse the aspects in the case and found the petitioner as guilty purely on surmises and suspicions and they have come to the conclusion, not on evidences on record but only on the basis of bias and prejudice against him. They have not examined main witnesses who is responsible for the occurrences. Therefore, the final order passed on the basis of perverse finding of the Enquiry Committee is not only illegal but also against the principles of natural justice. The petitioner filed appreciation letters and the letter of reward

given by the Commissioner of Customs to prove that he is a sincere Security Guard. Under such circumstances, he prays the prayer of the petitioner is to be allowed.

6. As against this as I have already pointed out the Respondent has not appeared before this Tribunal nor filed any Counter Statement as such there is no contra evidence to disprove the claims of the petitioner. Therefore, I find this point in favour of the petitioner that the action of the Respondent Management in dismissing the petitioner is not justified and not legal.

Point No. 2

The next point to be decided in this case to what relief the petitioner is entitled?

7. In view of my findings of the action of the Respondent Management in dismissing the petitioner from service is not justified and legal. I find the petitioner is entitled to the relief. Therefore, I direct the Respondent to reinstate the petitioner with backwages, continuity of service and consequential and other attendant benefits.

8. Thus, the reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 11th July, 2008)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :

For the I Party/Petitioner : None
For the II Party/Management : None

Documents Marked :

On the petitioner's side

Ex. No.	Date	Description
W1	16-7-2001	Memo (Ex M 10)
W2	12-12-2001	Charge sheet
W3	24-7-2001	Copy of letter No. MAA/02.08/816(Ex M 17)
W4	24-7-2001	Reply of Mr. Sainath (ExM 18)
W5	13-2-2004	Captain S.K. Goswamy disposal before Tribunal
W6	28-6-2002	Mr. Giriprasad's statement before Enquiry Committee
W7	13-7-2001	Page No. 52, Station diary entry of X-ray
W8	July 2001	Overtime form of July, 2001 duly signed
W9	July 2001	Attendance Register July 2001 (Ex M5)
W10	23-7-2001	Letter from Dy. Commissioner of Customs
W11	24-7-2001	Reply letter of respondent No. MAA/02.11.819 (Ex. M20)

W12	20-5-2001	Statement of Mr. K.B. Doss, Asst. Mgr. (Security)
W13	19-6-2002	Statement of Mr. S.L. Singh, Mgr. (Security)
W14	4-7-2002	Statement of Mr. Johnson, (Security) Asst.
W15	21-9-2005	Paper Cutting "The Hindu"
W16	31-10-2007	Paper Cutting "The Hindu"
W17	29-11-2007	Paper Cutting "The Hindu"
W18	16-12-2002	Reply by the Petitioner
W19	13-7-2001	Statement of Smugler Mr. Ismail (Ex. M16)
W20	13-7-2001	Copy of Mahazar (Ex. M15)
W21	18-10-2001	Letter of the Commissioner of Customs (Ex. M23)
W22	20-4-2001	Paper Cutting "The Hindu"
W23	19-4-2001	Paper Cutting "Daily Thanthi"
W24	—	Certified Standing Order of Air India for awarding punishment of Grade Code and competent authority
W25	19-6-2007	Judgement of NIT, Mumbai
W26	—	Extract of Enquiry findings (Page No. 4, Para No. 1.3) by Inquiry Officer
W27	15-4-1997	Reward of Rs. 10,000 from Commissioner, Customs
W28	11-1-1983	Certificate of Commercial Tax for reliable, etc.
W29	28-5-1985	Appreciation letter for detection of theft
W30	21-3-1988	Non-participation during strike
W31	8-8-1988	Appreciation letter for 125 gold bar seizure
W32	14-6-1991	Commendation certificate for forged passport detection and for detection of fire arm
W33	29-6-1994	Report against subordinate staff of theft
W34	7-7-1994	Appreciation letter for under weighment of cargo
W35	6-11-1996	Detection of peacock feathers
W36	21-1-1997	Appreciation letter for under weighment of cargo
W37	22-2-1997	Appreciation letter for under weighment of cargo
W38	27-11-1998	Detection of excess baggage
W39	3-2-2000	Appreciation letter for under weighment of cargo
W40	23-4-2001	Appreciation letter for under weighment of cargo
W41	1-8-1998	Merit Award 1997-98

On the Management's side

Ex. No.	Date	Description
Nil		

नई दिल्ली, 5 अगस्त, 2008

SCHEDULE

का.आ 2506.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बीसीसीएल लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या-1, धनबाद के पंचाट (संदर्भ संख्या 302/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-8-2008 को प्राप्त हुआ था।

[सं. एल-20012/230/2000-आई आर (सी-1)]

स्नेह लता जवास्, डेस्क अधिकारी

New Delhi, the 5th August, 2008

S.O. 2506.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 302/2000) of the Central Government Industrial Tribunal-cum-Labour Court, No.1 Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL Ltd. and their workmen, which was received by the Central Government on 5-8-2008.

[No. L-20012/230/2000-IR (C-1)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM-LABOUR COURT,
No. 1 AT DHANBAD**

PRESENT:

Shri H. M. Singh, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)
(d) of the I. D. Act, 1947

Reference No. 302 of 2000

PARTIES: Employers in relation to the
management of Bastacolla Colliery of
M/s. BCCL and their workman.

APPEARANCES

on behalf on the workman : Shri Ram Ratan Ram,
Jt. General Secretary,
B.M.U.

on behalf of the employers : Shri R. N. Ganguly.
Advocate.

State : Jharkhand : Industry Coal.

Dated, Dhanbad, the 22nd July, 2008

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10 (1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/230/2000 (C-1), dated, the 29th September, 2000.

"Whether the action of the management of M/s. BCCL Bastacola Colliery in dismissing Shri Ram Asrey Kurmi from service w.e.f. 15-9-99 is just and fair? If not, to what relief is the workman entitled?"

2. As per W. S. of the management it has been stated that the reference is not legally maintainable. The present dispute is individual one and had been raised at the instance of the concerned workman. No union sponsored the case of the workman in view of his undesirable conducts and various indiscipline acts committed by him during the tenure of his service. The concern workman developed the habit of indiscipline misbehaviour with the superior officer, threatening to superior officer and causing various antinational activities disrupting production and causing huge loss to the management by various acts constituting serious misconduct on his part.

3. The concerned workman was issued a chargesheet dated 9/10-6-95 alleging that he prevented various workman working in the 2nd shift from performing their duties and caused hindrance and obstacle in the mine. His acts were considered as misconduct under clauses 26.1.4, 26.1.8, 26.1.10 and 26.1.15 of the certified Standing order of the Company. He committed all such acts at 9 pit workings of Chandmari Section of Bastacola Colliery which was under the charge of Sri S. C. Mitra, the then Assistant Colliery Manager.

4. On 8-9-98 the concerned workman entered into the chamber of Sri A. K. Singh, Senior Mining Engineer, Bastacola Colliery while he was discussing the production plan of 8 pit workings, Chandmari Section with his subordinate officers at about 8.45 A.M. and asked him to allow his attendance marked disregarding his late coming to duty and when Sri A. K. Singh expressed his inability to do so, in view of the fact that attendance has already been closed at 8.30 A. M. the concerned workman became furious and started shouting with loud voice and abused Sri Singh. The concerned workman was charged on 9-9-98 under clauses 26.1.4, and 26.1.10 of the certified standing order for commission of the misconduct of riotous and disorderly behaviour, threatening, abusing and habitual and insubordination.

5. The concerned workman did not mend himself inspite of several reformatory attitude taken by the management and lastly he committed one of the most dangerous misconduct endangering the lives of workmen deployed in the mine besides causing huge financial loss to the management on 28/29-12-98.

6. On 29-12-98 at about 5.00 A.M. the concerned workman motivated, excited and abated the five workers, S/Sri Jaydeb Kalindi, Ramcharitar Bhuia, Bhola Bhuia, Gobardhan Dusad, Shyam Sunder Prasad all miners/

loaders to climb up the top of the headgears of Victory and Chandmari Sections of Bastacola Colliery to put pressure on the management for withdrawal/cancellation of the transfer orders issued to 9 workmen and thereby stopped the winding operations causing 197 employees trapped in the mine facing the danger on account of inflow of gas and water spreading alarming situation in the colliery. At the intervention of Jharia Police and CISF Jawans, 83 persons could be evacuated from victory 1 & 2 pits by 11 A.M. on 29-12-98. After departure of the Police, the concerned workman motivated the aforesaid workmen to climb up the headgear top again and the workmen trapped inside the mine continued to remain till 3 P.M. on 29-12-98 when subsequent attempt made by CISF could get them evacuated. As a result, the company suffered huge loss on account of loss of production, towards payment of wages to the workers and towards payment of demurrage charges for non-despatch of coal, the total loss accruing to being Rs. 9,12,882. This also caused disruption in industrial relation and caused serious repercussion on the administration.

7. The management issued a chargesheet dated 2-1-99 under various clauses of the Certified Standing Order in respect of the acts and omissions committed by the workman on 29-12-98 referred to above. The concerned workman submitted his reply taking the defence plea of alibi expressing his ignorance about the acts committed by him as per the allegation levelled in the chargesheet.

8. Thereafter the management appointed the Enquiry Officer and the Presenting Officer in respect of the 3 chargesheets referred to above and the departmental enquires were conducted against the concerned workman in his presence. The concerned workman was given full opportunity to defend his case by cross-examining the management witnesses, giving his own statement and producing his defence witnesses.

9. The concerned workman was found guilty in all the departmental enquires held against him fairly and properly in accordance with the principles of natural justice.

10. The Disciplinary authority after examining all the aspects issued a letter dated 2-8-99 enclosing therewith copies of the enquiry reports in respect of the three chargesheets, giving opportunity to the concerned workman to submit his representation, if any, on the enquiry reports and the findings to be considered at the time of finalisation of the matter relating to his guilt and imposition of penalty.

11. The concerned workman submitted his representation in a manner indicating his avoidance of responsibilities on the happenings which took place in the colliery on the dates mentioned in the chargesheets.

The Disciplinary Authority considered the enquiry report, the enquiry proceedings and the submissions made by the concerned workman, and accordingly, obtained the approval of the General Manager of Bastacola area for his dismissal from service. The concerned workman was dismissed from his service by letter dt. 15-9-99. It has been submitted by the management that their action in dismissing the concerned workman from service is legal, bonafide and the concerned workman is not entitled to get any relief.

12. It has also been said in the rejoinder that the concerned workman's performance was not satisfactory as per service record. It has also been stated that the concerned workman was issued chargesheet on 9/10-6-95, 9-9-98 and 2-1-99 for his alleged misconduct but management has adopted reformatory view and kept the disciplinary action suspended in anticipation of improvement in his conduct on the supposition that he would reform himself as chargesheet issued to him were hanging over his head. Unfortunately, the concerned workman proved to be beyond reform and committed the misconduct of such a nature on 29-12-98 that the management was compelled to issue the chargesheet dated 2-1-99 and conducted departmental enquiry according to the provision of law leading to the imposition of penalty of dismissal from service. In such circumstances, the concerned workman cannot blame the management for taking disciplinary action against him because of his habitual indiscipline and commission of misconducts of highly dangerous and serious consequences. The management had filed a civil suit for recovery of the damages caused to the company and that has no concern with the departmental action taken against the concerned workman leading to his dismissal from service. Under the circumstances, it has been prayed that the action of the management in dismissing the concerned workman from service was legal, bonafide and justified and the concerned workman is not entitled to get any relief.

13. The concerned workman has submitted his W. S. stating that the Government of India, Ministry of Labour has been pleased to refer his case before the Tribunal for early adjudication. It has been stated that it is wrong that the dispute cannot be maintainable as per I. D. Act, 1947 when the concerned workman by himself has raised the I. D. under Section 2A of the I. D. Act. It has been submitted that the concerned workman never committed indiscipline acts during his service. It has also been stated that he has never committed any misbehaviour with any superior officer and he is very dutiful workman. It has been said that the chargesheet against the concerned workman was issued with mala fide intention and he has been dismissed from service arbitrarily, biased and unjustified. He has never motivated, excited and abated the five workers viz. S/Sri Jaydeb Kalindi, Ramcharitar Bhuia, Bhola Bhuia, Gobardhan Dusad, Shyam Sunder Prasad all miners/loaders to climb up the top of the headgears of Victory and Chandmari Sections of Bastacola Colliery to put pressure on the management for withdrawal/

cancellation of the transfer orders issued to 9 workmen and thereby stopped the winding operations causing 197 employees trapped in the mine. He was not present on any incident on 29-12-98 at the colliery. The chargesheet which the management issued to the concerned workman is illegal and no fair and proper enquiry has been conducted. So it has been prayed that the order of dismissal be set aside and an Award be passed in favour of the concerned workman with direction to the management to reinstate the concerned workman in his original job with full back wages and other consequential benefits from the date of his dismissal.

14. Regarding fairness of enquiry it has been held by the Tribunal on 21-6-2006 that the domestic enquiry conducted against the concerned workman by the management is fair, proper and in accordance with the principle of natural justice as per submission made by the representative of the concerned workman.

15. The representative of the workman stated in course of hearing argument on merit that he was not present on the date of incident on 29-12-98 because he has got no concern. But it seems to be not believable as per evidence produced by the concerned workman himself and management. Because of the fact that as per annexure-C it has been written by Coal Mines Piece rated Workers Association on 20-9-99 wherein it has been stated that the concerned workman is the Branch Secretary of Coal Mines Piece rated workers association of Bastacola Colliery. The concerned workman in his representation marked as Annexure-B dt. 11-1-99 at page-4 has stated that he is not leader of the union. So he has no concern regarding the alleged incident. It shows contradiction from his statement as well as from his union. Moreover he has written Annexure-B which is a letter dt. 11-1-99 wherein he has admitted in para-8 that he has been issued letters for two times for his misconduct. Regarding his absence on the date of incident on 29-12-98 an FIR has been lodged by the management against the concerned workman with certain co-workers. It shows that the incident has been taken place and FIR No. 2222376 has been lodged. In this respect the concerned workman stated that he has been acquitted in the above case. In this respect the Ld. Lawyer for the management has argued that the concerned workman has been acquitted on the ground of hostility of the witnesses. It shows that the concerned workman is so powerful that he got hostiled to his witnesses stated in the first FIR. As per Civil Suit No. 2/99 (M/s. BCCL & another-versus-Somaru Yadav and 6 others) in which case compensation and damages has been demanded by the management against the workman amounting to Rs. 9,12,000 regarding loss caused to the company due to the act of the workman on 29-12-98.

16. Civil/Criminal case has got no concern with the departmental enquiry because in a Criminal cases

conviction cannot be made on presumption because prosecution has to prove his case beyond reasonable doubt. Civil Case cannot be ground for challenging departmental enquiry against the concerned workman.

17. I have gone through the entire papers submitted by the management which shows that the concerned workman was issued chargesheet dated 9/10-6-95 for which the concerned workman has submitted his reply by Ext. M-2 for dropping the chargesheet. The enquiry report shows that the concerned workman was present in the proceeding and he has fully participated in the enquiry. After concluding the enquiry he has been issued letter by the management along with enquiry report dt. 2-8-99 which has been received by him and after that he has made his representation against the above enquiry report suggesting for dismissal on 11-1-99. Management after considering his representation and after giving copy of enquiry report passed order of dismissal after considering his representation dated 11-1-99. It shows that the concerned workman is indisciplined. Such persons should not be in the service of the management. If such persons are allowed to remain in the services it will create the atmosphere of indiscipline in the industry resulting loss of production and unrest in the industry.

In the result, the following Award is rendered :—

“The action of the management of M/s. BCCL, Bastacola Colliery in dismissing Shri Ram Asrey Kurmi from service w.e.f. 15-9-99 is just and fair. Consequently, the concerned workman is not entitled to get any relief.”

H. M. SINGH, Presiding Officer

नई दिल्ली, 6 अगस्त, 2008

का.आ. 2507.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बी.सी.सी. एल. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या-1, धनबाद के पंचाट (संदर्भ संख्या 45/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-8-2008 को प्राप्त हुआ था।

[सं. एल-20012/470/94-आई आर(सी-1)]

स्नेह लता जवांस, डेस्क अधिकारी

New Delhi, the 6th August, 2008

S.O. 2507.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 45/97) of the Central Government Industrial Tribunal-cum-Labour Court, No.1 Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the

management of M/s. BCCL Ltd. and their workmen, which was received by the Central Government on 6-8-2008.

[No. L-20012/470/94-IR (C-1)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NO. 1 DHANBAD

PRESENT:

Shri H. M. Singh, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)
(d) of the I. D. Act., 1947

Reference No. 45 of 1997

PARTIES: Employers in relation to the
management of Lodna Area of
M/s. BCCL and their workman.

APPEARANCES

on behalf of the workman : Mr. D. Mukherjee,
Secretary,
B.C.K.U.

on behalf of the employers : Mr. D. K. Verma,
Advocate.

State : Jharkhand : Industry Coal.

Dated, the 21st July, 2008

AWARD

1. The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10 (1) (d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/470/94 (C-1), dated, the 4th February, 1997.

SCHEDULE

"Whether the demand of the Union that Md. Sakur Ansary and others as per list annexed with the Order of reference are eligible for regularisation from retrospective effect by the management of Lodna Area of M/s. BCCL is legal and justified? If so, to what relief are these workman entitled?"

2. The case of the management as disclosed in their W.S. is that the reference is not maintainable legally because there is no employer-employee relationship between the management and the concerned persons. So no industrial dispute can exist between them. It has been asserted that some of the concerned persons happen to be workman of Sri Salim Khan, Shaft Sinking contractor and the rest of the persons are job seekers who have included themselves in the list to get recruited in the employment of the company with the help of litigation.

3. It has been stated by the management that they issued work order to Sri Salim Khan in the month of September, 1987 for sinking of No. 10 Pit of Bagdigi Colliery from the bottom of 11 Seam to the bottom of 10 Seam covering a depth of about 93 meters. The finished diameter of the shift was required to be 4.6 metres and it was stipulated in the work order that the sinking job was to be completed within a period of 8 months as per the plans supplied to the contractor. The contractor was required to get the sinking operation from the bottom of 11 seam by deepening the existing pit No. 10 available from the surface.

4. It has also been submitted that the rate of sinking was fixed per metre depth of sinking done in No. 10 pit. The contractor was required to carry on all operations by engaging his own workers using his own machineries, plants and equipments and deploying his own supervisors to supervise all the job. The management agreed to supply explosives and detonators required for the blasting operations in the course of sinking the pit and the contractor was required to make payment of the cost of explosives and detonators used by him.

5. It has been stated that the contractor was required to make payment of wages, bonus etc. to his workers and required to make payment of compensation under the Workmen's Compensation Act in the event of any accident to his workmen in the course of and arising out of sinking operations carried on as per the contract deed.

6. as per management's W. S. the contractor was required to submit his bills and after proper verification and checking the same used to be paid to him. The management at the same time was required to provide safe working place to the contractor and his workmen and to discharge its obligation the management deployed the Overman and Mining Sirdar to make inspection and ensure providing safe working place to the contractor during the entire shift when the workmen are engaged.

7. The possession of the pit No. 10 was given to the contractor and he organised all the operations at the pit and remained incomplete control of the pit for the entire period during operations of the shift sinking jobs. Thus the contractor exercised the power of management, direction, control of pit No. 10 during the period of its sinking and control and supervise of the workmen working under him. Thus the persons who worked as contractors workers have no right to claim for their absorption as workmen of the company after completion of the sinking jobs.

8. The sinking job is purely temporary work carried on once in 10-12 years at the time of making excess to a new coal seam after extractions of coal from the higher seam. The extraction of coal from a seam takes about 20 years or so and the depending of the shaft for increasing of the depth of pit to have excess to lower seam may be

undertaken after 10-12 years after completion of extraction work of the upper seam for half of its area. The extraction of coal is carried on in two different stages : by development process pillars are formed and by extraction process depillaring is done and the coal is extracted leaving the supporting pillars of the shaft intact. Thus the shaft remains intact and progress from the surface upto bottom of the coal seam from where coal is scheduled to be extracted continuous after intervals of 10 to 12 years. Considering the nature of shaft sinking job and the duration and intervals at which such jobs are available, such jobs are only entrusted to a specialised contractor. There is no scope for regular employment of shaft sinkers in a colliery.

9. Considering the nature of the job the Central Government has not issued any notification U/s 10 of the the Contract Labour (Regulation and Abolition) Act, 1970 prohibiting engagement of contract labours on the shaft sinking jobs.

10. It has been denied in the rejoinder by the management that the concerned workmen are working as stone cutter for putting 190/240 days of attendance in a calendar year. It has also been denied that the concerned persons are working on permanent and prohibited job of stone cutting, and it is also wrong to say that they worked under the direct control and supervision of the management and equipments for execution of the jobs are supplied to them by the management. It has also been denied by the management that they pay wages to the concerned persons and that the concerned persons are rendering service and producing goods for the benefit of the management. It has been submitted by the management that some of the concerned persons worked as shaft sinking mazdoors under the contractor Sri Salim Khan and rest of them are job seekers. Therefore, the question of making payment of wages to the concerned persons by the management did not and cannot arise. It has been prayed that an Award be passed in favour of the management holding that the concerned workmen are not entitled to get any relief.

11. On behalf of the workmen a W. S. has been filed stating therein that the concerned workmen are the workmen of the management at Lodna Area of M/s. BCCL and they are stone cutters doing job continuously with unblemished record of service. It has also been stated that the work of stone cutting is under permanent and prohibited category of job and also they have done work for more than 190/240 days attendance in each calendar year. Their job is of permanent and perennial nature and they have worked under direct control and supervision of the management. All the implements for execution of the job are being supplied by the management.

12. It has also been stated that as per Mines Act, Rules and Regulations all underground workmen are legally bound to work under direct control and supervision of the competent person such as Manager, Assistant Colliery

Manger, Overman, Mining Sirdar etc. The above stone cutting job has been prohibited by the Govt. of India, Ministry of Labour w.e.f. February, 1975 which was challenged before the Hon'ble High Court, Patna Ranchi Bench and the Full Bench of the Hon'ble Patna High Court confirmed the decision of the Ministry.

13. It has been stated that the management has been paying the concerned workmen below the wages prescribed in the NCWA. The concerned workmen have been rendering service for the benefit of the management and the management has been disbursing the wages to the concerned workmen in the name of certain alleged intermediaries only to camouflage the real issue and to pay the concerned workmen below the rates of NCWAs. It has been mentioned that the demand of the union for regularisation of the concerned workman with retrospective effect is legal and justified and the action of the management in not regularising the concerned workman and not paying them wages as per NCWA is illegal, arbitrary, unjustified and against the principles of natural justice. So prayer has been made that the reference be answered in favour of the workmen directing the management for regularisation of the concerned workmen with retrospective effect with all arrear of wages and consequential benefits.

14. In order to substantiate their case management has examined MW-1 who has proved Ext. M-1 and M-2 and also produced MW-2 who has proved already marked Ext. W-1. On the side of the workmen to support their case WW-1 has been examined who has proved Ext. W-1, W-1/I and Ext. W-2.

15. Heard Ld. Advocate for the management and the representative of the workmen and also perused the record.

16. It is the case of the concerned workmen that they are working in the underground Mines of Lodna Area since 1987 continuously and performing permanent and perennial nature of job of stone cutting in the underground under direct control and supervision of the management and they have put 190/240 days attendance in each calendar year. All the implements for execution of job are being supplied by the management and in this way they have been working from 1987 to 1996. In the year 1996 they have been stopped from work by the management from duty without assigning any reason. It has been argued that they were originally appointed by the contractor through whom they were working but the management changed the name of the contractor from time to time and implements are supplied for underground work by the management and also wages paid to them for which registers have been prepared and it was obtained in presence of the officer of the management. So they should be regularised and their wages be paid according to rules. It has also been argued that the management employed them through contractor only to camouflage the real issue because the

work is of permanent and perennial in nature. The representative of the workman has referred to a decision reported in LLN 1999 (2) page 612 in which Hon'ble Supreme Court laid down overall control of working of contract labour including administrative control remaining with the Board—Board neither registered as principal-employer nor contractor was licensed contractor—Held, at lifting the veil it is clear that there was no contract system with the Board as work was of perennial nature—Contractor has to be kept out—So called contract system was only a camouflage—Employer-employee relationship is easily visualised Employees who have worked for more than 240 days in a year are entitled to be absorbed permanently in the Board.

17. Regarding license it has been argued by the Ltd. Advocate of the management that license has been issued in favour of the management by the concerned authority as per Contract Labour (Regulation and Abolition) Act 1970. As per Annexure filed by management as contractor Salim Khan to whom contract has been given for performing the job as per annexure enclosed in Ref. No. BCCL/BC/PER/92/255 dated 12-2-92. It shows that when only 10 workers were engaged by Salim Khan no registration is required.

18. Representative of the workman also referred a decision reported in 1962 LLJ page 131 in which Hon'ble Supreme Court laid down that management employing labour through Mukaddams—Such Mukaddams deducting their commission from out of the wages payable to the concerned workmen so employed should be treated as direct employee and that Mukkamdas should be taken over as regular semi-skilled employees of the company. In the present case there is no proof or allegation of workmen that contractor getting any commission regarding wages paid to the concerned workmen by the company. The representative of the workman has referred a decision reported in SCLJ Vol. 6 page 3867—U. P. I. D. Act, 1947 in which Hon'ble Supreme Court laid down that on the ordinary grammatical sense of the words 'employed by a factory' occurring in the Standing Order, they include every person who is employed to do the work of the factory. The use of the word 'by' has nothing to do with the question as to who makes the appointment. The reason why 'by' was used instead of 'in' appears to be to ensure that if a person has been employed to do the work of the industry, whether the work is done inside the factory or outside the factory, he will get the benefit of the Standing Orders. The representative of the workman also referred another decision reported in LLJ Vol. 2 1964 page 633 in which Hon'ble Supreme Court laid down that A bidi manufacturers engaging a number of persons on contracts for getting the work of rolling the bidies done. Such persons in turn engaging a number of other persons. The persons so engaged taking the leaves home for cutting inproper shaves. The work of rolling the bidis done by such persons in the premises of the intermediaries with the materials supplied to them by such intermediaries. The

necessary materials such as thread, bidi leaves and tobacco supplied to his Intermediries by the bidi manufacturer. Payment to the bidi rollers made on piece-rate basis. Such payment plus the commission due to the intermediaries ultimately made by the bidi manufacturer. The intermediaries found to be men of impecunious. The representative of the workman also referred a decision reported in CLJ Vol. 10 page 21—Canteen Workers employed by Co-operative Society are employees of appellant company within meaning of Bombay Industrial Relations Act, 1946. In the present case there is no cooperative society employing the present workmen. The representative of the workman also referred another decision reported in SCLJ Vol. 15 page 112 in which relationship of employer and employee has been discussed and duty of the Court has been indicated. The representative of the workman has also referred a decision reported in LLR 1994 page 634 in which Hon'ble Supreme Court laid down that regarding contract labour—Right to regularisation in the employment of the principle employer—Whether the engagement and employment of labourers through a contractor is a mere camouflage and smoke screen.—It is a question of fact have to be established by the contract labourers on the basis of requisite materials. He has also referred a decision reported in 1995-II CLR-214 in which Hon'ble Supreme Court laid down regarding Contract Labour (Abolition and Regulation) Act, 1972—S.10-Railway Parcel Porters working on contract labour in certain Railway Stations claim direction for their permanent absorption—Report of Asstt. Commissioner of Labour, Central Government of Lucknow was called for—Report is received inter alia stating that parcel handling work is permanent and perennial in nature.—The Supreme Court following the decision in the case of R. K. Panda Vs. Steel Authority of India 1994 II C.L.R. 402 issued direction for absorption and regularisation of the petitioners according to the terms indicated in the judgement. The representative of the workman has also referred a decision reported in 2007 LLR 1029 of Hon'ble Calcutta High Court and also 2007 LLR 1032 of Hon'ble Madras High Court. He also referred to a decision reported in 2007 AIR SCW 6904 in which Hon'ble Supreme Court laid down that when the petitioners are the daily wage employees of Co-operative Electric Supply Society—was taken over by Electricity Society Board—Electricity Board to regularise the services of the daily wage employees who were working from 4-5-1990. Such workers cannot be denied benefit of decision of Board permitting regularisation. In the present case there is no society and no decision has been taken by the Board for regularisation. The representative of the workman also filed copy of Award of this Court bearing Reference No. 58/1992 and also evidence of WW-1, WW-2, MW-1 and Writ Petition No. C.W.J.C. No. 199/97 (R) also L.P.A. No. 214/99 (R) of Hon'ble Patna High Court in the above Ref. No. 58/92.

19. Ld. Advocate for the management argued that the concerned workman has not produced Salim Khan under whom they were working and Salim Khan was

important witness to support their case. Hence, mere verbal allegation cannot be accepted. He has also argued that WW-1 has stated on oath in chief that originally they were appointed by the contractor viz. Wajir Khan and Wajir Khan has also not been produced and examined by the concerned workmen to support their case. Moreover, in cross-examination the above witness WW-1 who is himself a party to the case has stated that Ext.-2 series are not the slips for taking implements for work from the Stores, rather these are the slips for issue of cap lamp. It is a fact that these slips (Ext. W-2 series) are not pertaining to Bagdigi Colliery rather these pertain to Jairampur Colliery. It shows that slips Ext. W-2 series are not going to help in any way to the concerned workmen because these slips are relating to Jairampur Colliery. Present case is regarding the Bagdigi Colliery and it has also been stated by WW-1 that Bagdigi and Jairampur Colliery are separate collieries their colliery Managers are also separate. He has also stated that at No. 10 pit of Bagdigi Colliery the work of sinking was being performed. It supports the case of the management that only sinking work was allotted for performing by Salim Khan as per contract Ext. M-1 in which terms and conditions are mentioned. It has been stated clearly in the above contract in para 6, 7 and 10 which is as follows :—

“Para—6—You shall be required to pay wages and other benefits to your workmen as per the law. The management shall not accept any liability in this connection.

Para—7—All compensation payable to the persons employed by you as per the workmen's Compensation Act for injury received or death arising out of the drivage of incline shaft or other operation connected thereto shall be payable by you. If the company has to pay any such amount, the amount so paid shall be realised from your security money and/or pending bill.

Para—10—Job should be carried out as per guidance of the Colliery Management.”

It shows that only sinking work was done by the contractor Salim Khan for which workmen were employed. It has been admitted by WW-1 that sinking work was being done at Bagdigi Colliery. The above witness has also stated in his cross-examination at page 3 “I have got no paper to show that I have worked in that colliery.” He also stated that none of the concerned workmen have any other proof to show that they have worked in the said colliery.

It shows that when on oath the concerned workman has stated that he himself along with other workmen have not worked under the management of Bagdigi Colliery. It shows that they cannot be regularised as prayed for. The representative of the workman has argued that MW-2 in his cross-examination has deposed “I cannot say whether any statement made in respect of the concerned workman

being the workman of the contractor, named Salim Khan is true or not?” He has argued that workman's statement be accepted and there is no ground and justification excepting such statement of workman WW-1.

19. The representative of the workman has argued that MW-1 in his cross-examination has stated that “I have not supervised the work of underground mine. Whoever enters into underground mine his attendance is marked in Form ‘C’ register. The registration certificate which has been proved by me is of the year 1994. In this registration certificate the name of Salim Khan is not there.” When anything is stated on oath verbally where there is documentary evidence, documents should be accepted because man is can tell lie but document cannot. When it has been clearly stated by the management that Ext. M-1 has been issued by Mr. M.K. Gupta there is no ground to reject this paper mainly on the ground of verbally saying by MW-1 that “I have not seen license in the name of Salim Khan as contractor.” It shows that the persons might have worked in Jairampur Colliery whereas they have tried to make out a case that they worked in Bagdigi Colliery. Regarding Bagdigi Colliery no document has been filed by the concerned workmen showing that they worked even as contract labourers of contractor Salim Khan.

20. Merely by paying wages to the concerned workman by the contractor in the presence of the management's official does not create any relationship of employer and employee. Ext. W-1 is a wage register in which name and address of contractor has been mentioned as Salim Khan. The name of establishment rate of daily wages paid is also mentioned. It also supports the case of the management that the concerned workmen have worked under the contractor and wages have been paid to them by the contractor himself in presence of the management official. This Ext. W-1 shows “nature of work” has been cut down by addition and over writing “Stone cutting” when they have already filed and put Ext.-2/I in which it has been mentioned already Jairampur Colliery and in cross-examination at page-2 WW-1 has stated that at No. 10 Pit of Bagdigi Colliery sinking work is being performed.

21. Ld. Advocate for the management has referred a decision reported in 2001 Lab. I.C. page 3656 in which Hon'ble Supreme Court laid down :—

(G) Contract Labour (Regulation and Abolition) Act (37 of 1970) S. 10—Notification dated 9-12-1976 issued by Central Govt.—Notification prohibiting employment of contract labour—Issuance prerequisites—Factors mentioned in S. 10 (2) are to be considered by Govt. in respect of each establishment—Omnibus notification not permissible—Notification dated 9-12-1976 prohibiting employment of contract labour for sweeping, cleaning, dusting and watching of buildings owned or occupied by establishment in respect of which Central Govt. is the appropriate Govt.—Is omnibus notification shows non-application of mind—Liable to be set aside.

Neither Section 10 of the CLRA Act nor any other provision in the Act, whether expressly or by necessary implication, provides for automatic absorption of contract labour on issuing a notification by appropriate Government under sub-section (1) of Section 10 prohibiting employment of contract labour in any process, operation or other work in any establishment. Consequently the principal employer cannot be required to order absorption of the contract labour working in the concerned establishment.

The concept of automatic absorption of the contract labour on issuance of notification under S. 10 prohibiting employment of Contract labour in any establishment, is neither alluded to in the report of the joint committee of the Parliament on the Contract Labour (Regulation and Abolition) Bill 1967 or in the statement of objections and reasons of the Act. The scheme of the Act is to regulate conditions of workers in contract labour system and to provide for its abolition by the appropriate Government as provided in S. 10 of the CLRA Act. The various regulatory and welfare measures provided under the various provisions of the Act clearly speak treatment of contract labour as employees of the contractor and not of the principal employer. It is therefore difficult to perceive on in S. 10 any implicit requirement of automatic absorption of contract labour by the principal employer in the concerned establishment on issuance of notification by the appropriate Govt. under S. 10 (1) prohibiting employment of contract labour in a given establishment.

(1) Contract Labour (Regulation and Abolition) Act (37 of 1970) Ss. 2(i), 2(c) Industrial Disputes Act (14 of 1947) S. 2 (s)—Contract Labour—Engagement by contractor—Does not create relationship of master and servant between contractor labour and principal employer."

(b) in as much as the impugned notification issued by the Central Government on December 9, 1976 does not satisfy the aforesaid requirements of S. 10 it is quashed but we do so prospectively i.e. from date of its judgement and subject the clarification that on the basis of this judgement no order passed or no action taken given of.—fact to the said Notification on or before the date of his judgement, shall be called in question in any Tribunal or Court including a High Court if it has otherwise attained finality and/or it has been implemented.

(3) Neither S. 10 of the CLRA Act or any other provision in Act whether expressly or by necessary implication, provides for automatic absorption of contract labour on issuing a notification by appropriate Government under sub-section (1) of S. 10 prohibiting employment of contract labour, in any process, operation or other work in any establishment. Consequently the principal employer cannot be required to order absorption of the contract labour working in the concerned establishment.

(6) If the contract is found to be genuine and prohibition notification under S. 10 (1) of the CLRA Act in respect of the concerned establishment has been issued

by the appropriate Government, prohibiting employment of contract labour in any process, operation or other work of any establishment and where in such process, operation or other work of the establishment the principal employer intends to employ regular workmen he shall give preference to the erstwhile contract labour, if otherwise found suitable and if any necessary by relaxing the condition is to maximum age appropriately taking into consideration the age of the workers at the time of their initial employment by the contractor and also relaxing the condition as to academic qualifications other than technical qualifications."

He has also referred a decision reported in 2007 JLR 341 in which Hon'ble Jharkhand High Court laid down Regularisation of mine workers—only because an employee has been engaged temporarily or for a number of years, it cannot be held that such engagement has been made for depriving him from the status of permanent employee and onus is on the workman to prove such fact—only because the workman completed 240 days and there is violation of Section 25F of I. D. Act they do not become entitled to regularisation—Tribunal misdirected itself while directing for regularisation—award set aside. He has also referred a decision reported in 2006 (2) JLR page 283 in which Hon'ble Supreme Court laid down Service Law—Appointment—equality—rule of equality in public appointments is a basic constitutional feature—unless appointment is in terms of relevant rules and after a proper competition, same would not confer any right on the appointees—contractual appointment ends with the contract—daily wages or casual appointment ends with discontinuation—temporary appointee cannot claim permanency on expiry of the term—merely working for a long time one does not acquire a right for regularisation such persons cannot invoke doctrine of legitimate expectation.

22. Workmen have to prove that they have worked in the colliery of management at any time if as contract labour. As per document filed by them shows that they may have worked in Jairampur Colliery and not Bagdigi Colliery as per Ext. W-2 and W-2/1. Moreover, WW-1 in his cross-examination at page-3 has deposed "I have got no paper to show that I had worked in that colliery and none of the concerned workmen have proved to show that they had worked in the said colliery." Accordingly the following Award is rendered :—

"The demand of the Union that Md. Sakur Ansari and others as per list annexed with the order of reference are eligible for regularisation from retrospective effect by the management of Lodna Area of M/s. BCCL is not legal and not justified. Consequently the concerned workmen are not entitled to get any relief."

H. M. SINGH, Presiding Officer

नई दिल्ली, 11 अगस्त, 2008

का.आ 2508.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ इण्डिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.1, चंडीगढ़ के पंचाट (संदर्भ संख्या 45/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-8-2008 को प्राप्त हुआ था।

[सं. एल-12012/160/2002-आई. आर. (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 11th August, 2008

S.O. 2508.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 45/2003) of the Central Government Industrial Tribunal-cum-Labour Court No.1, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of Bank of India, and their workmen, received by the Central Government on 8-8-2008.

[No. L-12012/160/2002-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-1,
CHANDIGARH**

Case No.I.D. 45/2003

Sh. Kuldeep Kumar S/o. Sh. Balwant Ram H.No.7D Medical Enclave, KAAL ...Applicant

Versus

The Manager Bank of India, Kunjpura Road, Karnal.

... Respondent

APPEARANCES

For the workman : Workman in person

For the Management : Sh. S.P. Bhaskar.

AWARD

Passed on 25-7-08

Central Government vide notification No. L-12012/160/2002-IR (B-II) dated 31-1-2003 has referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of Bank of India, Karnal in terminating the services of Shri Kuldeep Kumar S/o Shri Balwant Ram a casual labour w.e.f 1-9-2000 is just and legal? If not, what relief the workman is entitled to?”

2. The present reference was made by the Central Government on the failure of conciliation proceedings for adjudication of the matter referred in the schedule referred above and the workman prayed for declaring the action of the management as illegal and invalid and for reinstatement in service with full backwages and all consequential benefits in the interest of justice, equity and fair play.

3. The management turned up and opposes this reference.

4. As per office memorandum dated 30-4-08, this case was fixed in pre lok adalat meeting on 25-7-08 for its disposal by adopting the mediation and conciliation mechanism. With the efforts of the Tribunal, the workman agreed to withdraw his reference and made a statement that if the management will give him priority in future recruitment in the sub staff cadre he will withdraw his reference. Shri S.P. Bhaskar, Chief Manager, Bank of India, also made a statement that the workman shall be given priority in future recruitments in the sub staff cadre as soon as the vacancy came. The prescribed authority of the management and the workman during the hearing of this case in pre lok adalat agreed upon the above mentioned terms and conditions. It is proposed to dispose off this reference in Lok Adalat. Accordingly the reference is returned to the Central Government as settled in Lok Adalat Central Government be informed. File be consigned to record.

Announced
25-7-08

G. K. SHARMA, Presiding Officer

नई दिल्ली, 11 अगस्त, 2008

का.आ 2509.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोलकत्ता के पंचाट (संदर्भ संख्या 39/91) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-2008 को प्राप्त हुआ था।

[सं. एल-40012/121/91-आई. आर. (डी.यू.)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 11th August, 2008

S.O. 2509.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 39/91) of the Central Government Industrial Tribunal-cum-Labour Court Kolkata, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Telecom, and their workman, which was received by the Central Government on 11-8-2008.

[No. L-40012/121/91-IR (DU)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL AT KOLKATA****Reference No. 39 of 1991****Parties: Employers in relation to the management of
Calcutta Telephones****AND****Their workmen****Present****Mr. Justice C.P. Mishra, Presiding Officer****APPEARANCE****On behalf of the : Mr. R.M. Chatterjee, Advocate with
Management : Ms. M. Chatterjee, Advocate.****On behalf of the : Mr. M.S. Dutta, Advocate.
Workmen****State : West Bengal Industry : Telephones.****Dated: 31st July, 2008.****AWARD**

By Order No. L-40012/121/91-IR (DU) dated 18-12-1991 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Calcutta Telephones Deptt. of Telecommunication, Taher Mansion, 8, Bentick Street, Calcutta, in terminating the services of Sh. Jayanta Banerjee, Casual workman w.e.f. 1-1-89 is justified? If not, what relief he is entitled to?"

This reference was earlier disposed of by an Award dated 27-10-1995 passed by the then Presiding Officer of this Tribunal. However, by an order dated 16-11-2007 in C.O. No. 7331 (W) of 1996 the Hon'ble High Court at Calcutta set aside the said Award and remanded the matter back to this Tribunal for making a fresh Award after giving the parties an opportunity of adducing further evidence. The relevant portion of the order of the Hon'ble High Court is as follows:

"For these reasons, I set aside the impugned award and allow the writ petition to this extent. I order that the tribunal shall make a fresh award after giving the parties an opportunity of adducing further evidence....."

3. The case of the workman as it appears for his written statement is that the Calcutta Telephones is a Central Government Company and as such an industry within the meaning of Section 2 (j) of the Industrial Disputes Act, 1947, hereinafter to be referred as the Act engaged with the business of Telecommunication

employing about 10000 workmen throughout West Bengal, including the concerned workman. The concerned workman was appointed as casual labour with effect from 1-2-1987 and posted in the Section of SDOP (Zone-IV) 26-27 Exchange (External) at P-9/10, Ganesh Chandra Avenue, Kolkata for underground cable maintenance work. The workman though loosely called casual labour, actually had been working there in the perennial nature of job which still exists. The record of his service in the Company was clean and meritorious and he used to discharge his duties with full satisfaction of his superiors and proved himself worthy of the job assigned to him. But, unfortunately, all of a sudden very unceremoniously the Company terminated his service with effect from 1-1-1989 without assigning any reason after two years of continuous service and also after having worked for 245 days in the year 1988 preceding the date of his termination. After such termination of service the workman made several verbal representations to the management of the Company at Taher Mansion, Calcutta for his reinstatement in service and the management assured that his case would be considered in due time, but no action was taken in this regard. The concerned workman thereafter raised a formal industrial dispute before the Regional Labour Commissioner (Central), Kolkata by a letter dated 10-5-1990. He along with other workmen also made a joint representation dated 18-3-1991 before the said authority again stating the relevant facts relating to termination of his service. Several conciliation meetings were held by the Assistant Labour Commissioner (Central), Kolkata to settle the dispute, but all efforts of the conciliation officer were proved abortive and a failure report was sent by him to the Government and ultimately the present dispute has been referred to this Tribunal for adjudication by the Central Government. Specific case of the workman is that the action of the Company in terminating his service is "retrenchment" as defined in Section 2 (oo) of the Act, but before effecting the said retrenchment, no retrenchment compensation and/or notice pay was paid to him which was condition precedent to retrenchment as defined in Section 25F of the Act in spite of the fact that he had put in 240 days of service in the year preceding his retrenchment. Thus, the Company violated the mandatory provisions of Section 25F of the Act which made the retrenchment invalid, inoperative and void ab-initio. He has referred several decisions of the Hon'ble Apex Court in support of his contention. According to the workman it is now the settled position of law that requirement prescribed in Section 25F of the Act is a "condition precedent" to retrenchment and failure to comply with the provisions of the Act would render the retrenchment invalid, in operative and void in the eye of law and the concerned workman shall be deemed to be in continuous service and entitled to reinstatement with full back wages. It is prayed by the workman that the issue be answered in his favour by holding that the retrenchment was invalid, inoperative and void and the workmen be directed to be reinstated in service with full back wages deeming him to be in continuous service.

4. The case of the management as per its written is that the present reference is not maintainable in law and the same is barred by limitation and principles of waiver, estoppels and acquiescence. On merit the case of the management is that the concerned workman was engaged as a casual labour on purely temporary and no work no pay basis for a particular piece of work on completion of which he was disengaged. He worked for 5 days from 24-2-1987 to 28-2-1987 in February, 1987 and 24, i.e., from 2-3-1987 to 7-3-1987, 9-3-1987 to 14-3-1987, 17-3-1987 to 21-3-1987, 24-3-1987 to 28-3-1987, 30-3-1987 and 31-3-1987 in March, 1987. In April, 1987 he worked for 25 days, i.e., 1-4-1987 to 30-4-1987 excepting 5-4-1987, 12-4-1987, 17-4-1987, 19-4-1987 and 26-4-1987 and 22 days in May, 1987, i.e., 1-5-1987 to 31-5-1987 excepting 3-5-1987, 9-5-1987, 10-5-1987, 13-5-1987, 17-5-1987, 24-5-1987, 28-5-1987 and 31-5-1987. Thus, the workman worked for a total 76 days. It is stated that the certificate as referred to by the workman is not issued to him and the same is only a departmental office document and on scrutiny subsequently the statement is found to be wrong and incorrect. The workman worked for a total 76 days for a particular piece of work and he was not retrenched as alleged but disengaged on completion of the particular emergent nature of work. It is further stated that the term retrenchment defines termination by employer of the service of a workman but in the present case the casual labour was not terminated but disengaged. Therefore, the action of the management in disengaging the casual labour does not come within the purview of retrenchment as defined in Section 2 (oo) of the Act. It is also stated that the engagement of the workman for a total period of 76 days was not continuous and as such the question of his reinstatement in service, compensation under Section 25F of the Act does not arise at all. According to the management the decisions referred to by the workman in support of his case are not applicable to the present case. The management in its written statement has denied each and every claim and contention of the workman. It is categorically denied that the workman had completed 240 days service in the year preceding to his alleged termination. It is further stated that the case of the workman is false, vague, baseless, speculative and harassing which should be dismissed with cost.

5. By an order dated 26-6-2008 this Tribunal allowed the management to incorporate to new paragraphs, namely, paragraphs 7A and 10A in its written statement. In paragraph 7A the management after the denying the statements of paragraph 5 of the workman's written statement has stated that the workman was engaged purely on temporary basis as casual labour on no work no pay basis for a particular emergent nature of job on completion of which he was disengaged and the total number of days worked by him in the year 1987 is 90 days only. It is denied that he was engaged on 1-2-1987 and terminated with effect from 1-1-1989. In paragraph 10A the management denied the

statement of the workman's written statement as made in paragraphs 9 to 12, 13 and 15 and repeated its earlier stand.

6. The workman has also filed a rejoinder to counter the written statement of the management wherein he challenged the claims and contentions of the management in its written statement. He reiterated his stand that he had worked for 245 days in the year 1988 and if the attendance register and wage payment register maintained by the management on the basis of ACG-17 vouchers for the year 1988 is produced before the Tribunal, the truth will be revealed.

7. After the Hon'ble High Court remanded back this reference to this Tribunal for a fresh Award, management has examined two witnesses, namely, MW-2 Raghav Prasad and MW-3 Anil Kumar Bhattacharya and also exhibited certain fresh documents. Workman, however, has chosen not to produce any fresh evidence in this case.

8. WW-1, Jayanta Banerjee, the concerned workman examined himself as the sole witness in support of his case. He has stated in his evidence that he was working in the 26-27 Exchange of the Calcutta Telephones and joined the service on 2-2-1987 as a Shramik. He applied for the said job on learning from his relation and got the job, but he did not possess the copy of the said application. He was working as Jinter in the underground. He used to sign attendance register which was kept in the office of the Junior Engineer. According to him the work which he used to perform was regular and perennial in nature. He used to be paid monthly on the 6th of the following month by the Bara Babu or Mondal Saheb of 26-27 Exchange and the payments were made on signing on revenue stamp on ACG-17 Form. His direct boss was Anil Kr. Bhattacharjee and he used to work under Mondal Saheb. No appointment letter was issued to him, but he was asked to join verbally. He was, however, terminated on 1-1-1989. He has stated that he worked for 245 days in 1988 which will appear from ACG-17 Form of 1988, attendance register of 1988 and the certificate of Mr. Bhattacharjee issued on 1990, Ext. W-1. He has also stated that before termination of service, he was not paid any retrenchment compensation or notice pay. He has prayed for his reinstatement in service with back wages. He was cross-examined at length. In cross-examination the witness has stated that he joined as casual labour, but he was neither informed about the terms and condition of service, nor for how many days his service was to last. He has admitted that he knew that the service was temporary and that he would not be terminated. He has denied that he was taken in service for a special occasion in a season. For establishing his employment, he has relied on the certificate, Ext. W-1 and the attendance register, but he has not been able to say where is the copy from which he got Xeroxed Ext. W-1. He, however, does not know whether this statement was official, nor does he remember to whom the original was handed over. He has

further stated that Xerox Ext. W-1 was not made by him but he was given Xerox copy. He has denied that the statement Ext. W-1 was not handed over by Mr. A. K. Bhattacharjee, but the same was procured by some other means. He, however, has admitted that apart from Ext. W-1 he has no other document to show that he had worked for 245 days. He has further stated that the same will appear from ACG -17 forms. He has admitted his signature in Ext. M-1 but he does not know whether it contained the particulars of his employment. He has further stated that he used to be asked to sign and paid wages. He has also stated that his daily wage was Rs.13.50 and from this Ext. M-1 it appears that he had worked from 24-2-1987 to 28-2-1987 and he received Rs. 67.50 for this period. He has admitted that no other amount is due to him. According to the witness the rates of daily wages were increased with effect from 1-1-1987 and because of such increase, some payment was due to him. He has admitted that he received Rs. 1147 as arrear in this regard on 19-4-1988. The witness has agreed to the dates shown in Ext. M-2 for which he had worked and a total of 90 days have been mentioned there. He has also agreed that he had no other dues against the months as mentioned. He, however, has denied that he had only worked for 90 days as shown in Ext. M-2. He has also denied that he had not worked in the Calcutta Telephones after May, 1987. He has further agreed that they used to work on no work no pay basis and used to get remuneration only for the days worked. According to him names of all ACG-17 employees are entered in the attendance register and ACG-17 vouchers used to be prepared on the basis of the attendance register. The witness has denied that he had not worked for more than 76 days in the Calcutta Telephones and according to him he had worked for 508 days in total.

9. On the other hand three witnesses have been examined on behalf of the management. MW-1, Baldeo Prasad Shah happens to be the Deputy Area Manager City of Calcutta Telephones. He has stated in his evidence that the vouchers relating to the year 1987, Ext. M-1 series show payments made to casual workers engaged temporarily and the period for which the concerned person worked. On looking to these exhibit the witness has stated that the concerned workman had worked for 76 days in the year 1987 and he had not worked for any other day excepting the days mentioned in these vouchers. According to the witness the workman had not been taken to work after 31-5-1987. He has narrated how and when the casual workers are taken by the department. Regarding Ext. W-1 the witness has stated that it is a document of the department maintained in the office showing particulars of the casual workers, but it is not a certificate issued in favour of the workman. Subsequently this document is found to be wrong and it is replaced by another document signed by Mr. A.K. Bhattacharya. On 11-11-1992 Mr. Bhattacharya filed a corrected statement, Ext. M-3 to the A.E., Staff City,

Calcutta Telephones. To the question of the Tribunal the witness has stated that he does not have any document to show that the workman indeed worked for 76 days in 1987 and not more. In cross-examination this witness has stated that the concerned workman was attached to 26/27 External under S.D.O.P., Zone- IV where the witness had worked from March, 1994 to February, 1995 and he was not in that Exchange in the years 1987 and 1988 and thus he may not have the personal knowledge about the matter and his deposition is on the basis of records. Regarding Ext. W-1 the witness has stated that there is error in respect of the entries in column No.7. He has not been able to say when the said mistake was detected but according to him it was certainly before 11-11-1992 by Mr. Bhattacharya and the mistake was rectified on the basis of the payment vouchers and ACE-2 accounts. He has admitted that his evidence regarding the said correction is his surmise. However, he has denied that the management has been trying to put a story in preparing Ext. M-3 to circumvent the Act. He has stated that these Exts. M-3 and M-3/1 were received from Mr. Bhattacharjee and the letter which was actually addressed to the A.E., Staff City has been searched out by the Department. The witness has admitted that the statement signed by Mr. Bhattacharjee on 27-7-1990, Ext. W-4 showing that the workman had worked for 90 days only was filed before the conciliation officer. He has denied that he worked for 263 days in 1987 and 245 days in 1988. The witness has further stated that no register is maintained in the department to show who are the casual workers engaged and amount paid to them, loose sheet of paper is maintained in that regard and from the loose sheet they prepare ACG-17 vouchers. He has further stated that in the years 1986, 1987 and 1988 only in cases of 10 persons mistake was found by Mr. Bhattacharjee and a corrected statement is filed as per Ext. M-3, but no query from Mr. Bhattacharjee has been made by the management as to why he made such mistakes in not making the statement as per payment vouchers. According to the witness ACE-2 accounts is permanent record which shows who are the casual workers paid for their work, but the management has not filed ACE-2 accounts for the year 1987 pertaining to the concerned workman which is available.

10. MW-2, Raghav Prasad is an Officer of BSNL, Calcutta Telephones. He has stated in his evidence that in the year 1991 Calcutta Telephones was not under BSNL. Then it was under the Central Government and BSNL came into existence in October, 2000. He has brought certain Government records and stated that Ext. M-3 shows the correct record of work done by the concerned workman. As per records the concerned workman was engaged for 76 days and the documents already exhibited on behalf of the management show the amount of remuneration received by him and those also bear his signatures. He has also stated that Ext. W-1 is false and incorrect. He has further stated that Ext. W-1 is forged one. However, there has

been objection raised on behalf of the workman on the ground that there is no such pleading and the statement of the witness in this regard has been recorded subject to objection. In cross-examination the witness has stated that the concerned workman never worked under him as he came to the said G.C. Avenue Office in July, 2000. Regarding Ext. W-1 he has stated that by forged he meant a false document and it does not bear the signature of Mr. A.K. Bhattacharya, but he could not say whose signature it is. On being shown Exts. W-1 and M-3 and asked whether the signatures of Mr. A.K. Bhattacharya on both these documents are similar, the witness replied that though he is not handwriting expert and it is a Xerox copy, he is of the opinion there is difference between the two signatures. He also could not recognize the signatures either in Exts. M-3 or M-3/1. He has stated that he neither ever worked under Mr. A.K. Bhattacharya nor ever seen him. It is admitted by him that he has no personal knowledge of the case and the documents filed by the management in this case. He also could not say whether the original of Ext. M-3/1 is available or whether this document is correct.

11. Last witness for the management is MW-3, Anil Kumar Bhattacharya who has stated in his evidence that the concerned workman was working in the external maintenance job including underground cables. It is stated by him that he has found the original document under his signature where it is shown that the concerned workman worked for 90 days only in 1987. This statement is recorded subject to objection. He has stated Ext. W-1 is not a correct document and he does not know anything about it. The days shown in it are not correct. According to him since it is a Xerox copy it cannot be taken as authentic. In cross-examination the witness has stated that he does not know about the written statement filed by the management in this and the stand taken by the management therein against the workman. The witness has also stated that Ext. M-4 is an office correspondence which states that the concerned workman had worked for 90 days only in 1987, but he does not remember to whom this correspondence is made, It bears original rubber stamp of S.D.O.P and signature. He has admitted that it is not addressed to anybody and it does not bear signature of any other official. He has further admitted that there is no endorsement in this Ext. M-4 to show that the office had received from him. The witness has stated that before writing Ext. M-4 he had consulted expenditure register, i.e., ACE-2, but he does not know whether the same has been filed. On being confronted with paragraph 7 of the written statement of the management where it is stated that in 1987 the workman had only worked for 76 days, the witness expressed his ignorance of the facts stated in such written statement and he was not consulted in this regard. According to him the fact mentioned in paragraph 7 of the written statement is not correct and his statement is correct. On the suggestion put to the witness that the statement made by him in Ext. W-1

is correct, he has replied that it is a Xerox copy so it could not be taken as authentic document. Number of days shown against the concerned workman in it are not correct as they had not worked for 240 days or more and so he could not say whether it is correct or incorrect.

12. Some documents have also been exhibited on behalf of both the parties. Out of the documents exhibited on behalf of the workman Ext. W-1 is the particulars of Casual Labours engaged after 30-3-1985 wherein the concerned workman has been shown to have worked for 263 days in 1987 and 245 days in 1988. Ext. W-2 is a letter of the concerned workman to the Assistant Labour Commissioner regarding illegal termination of his service by the management. Ext. W-3 is a letter of written by Mr. B.K. Ghosh, Deputy Area Manager (City) of the management to the Assistant Labour Commissioner (Central), Kolkata on the matter of the industrial dispute raised by the workman wherein the workman has been shown to have worked for 90 days in the year 1987. Ext. W-4 is a statement in respect of industrial dispute raised by the workman against the management under the signature of S.D.O.P./Zone-IV wherein the workman has been shown to have worked only in the year 1987 and that too for 90 days only.

On the other hand, out of the documents exhibited on behalf of the management in this case Ext. M-1 are the four ACG-17 vouchers showing payments made to the concerned workman. Ext. M-2 is the bill of Shri A.K. Bhattacharya showing payment of arrear to the concerned workman and others. Ext. M-3 is a letter dated 11-11-1992 of the S.D.O.P./Zone-IV of Calcutta Telephones addressed to the A.E. Staff City of the said Calcutta Telephones regarding particulars of casual labourers engaged after 30-3-1985. Ext. M-3/1 is the enclosure attached to the above letter Ext. M-3 showing the workman to have worked for 76 days only in total. Ext. M-4 is a statement in respect of the industrial dispute between the management and their workman Shri Jahanta Banerjee wherein it has been stated that the workman had worked for 90 days only. Ext. M-5 is a letter dated 7/8th August, 1990 of one B.K. Ghosh, Deputy Area Manager (City), Calcutta Telephones addressed to the Assistant Labour Commissioner (Central), Kolkata wherein the concerned workman has been stated to have worked for 90 days only.

13. On the perusal of the aforesaid facts it is evident that the matter has come before this Tribunal for giving a fresh Award as per direction give by the Hon'ble Calcutta High Court vide its order dated 16-11-2007 as referred to above whereby the earlier Award dated 27-10-1995 passed by my learned predecessor had been set aside and the Tribunal has been asked to make a fresh Award after giving the parties an opportunity of adducing further evidence particularly with regard to the document, Ext. W-1. It is evident that the workman has relied upon the document,

Ext. W-1 alleged to be a certificate maintained by the department. The Tribunal had accepted the case of the workman and held that the facts and figures borne by Ext. W-1 were correct. It was also held that by not engaging the workman the management had terminated his service by way of retrenchment without following the conditions of Section 25F of the Act and so the retrenchment was void ab initio and the workman was held to be entitled to be reinstated into service with full back wages and the Award was made accordingly. The management, however, had challenged the aforesaid Award and submitted before the Hon'ble High Court that there was no reason for the Tribunal to accept Ext. W-1 as the clinching document particularly when the author of the document was not examined and the management by producing official records maintained in usual course of business refuted the facts and figures mentioned in that document. The observations made by the Hon'ble High Court in this connection were also to the effect that the document, Ext. W-1 was not the document of employment or a copy thereof, rather it was a copy of a certificate stated to have been issued by one A.K. Bhattacharya, a former employee of the Calcutta Telephones. It was also found that the workman did not examine the author of the document nor did the management take any step for examining him though he was available. Considering this aspect of the matter the Hon'ble High Court had observed that the interest of justice demands that the matter should be remitted to the Tribunal for recording further evidence and giving a fresh Award in this case. It was also observed therein that the question whether the facts and figures stated therein were correct should also be examined by the Tribunal after giving the parties an opportunity to adduce further evidence in this regard. The matter regarding the plea of jurisdiction and maintainability etc were also to be considered in this connection by the Tribunal as per aforesaid observations made for giving fresh Award after giving the parties opportunity of adducing evidence accordingly.

14. The matter was as such placed before this Tribunal on 21-1-2008 when an application along with a Xerox copy of the certified copy of the order of the Hon'ble High Court dated 16-11-2007 had been filed on behalf of the management as its copy was so issued to it on 15-1-2008 as per its submission made in this regard. It is evident that the matter was to be decided within three months in terms of the order dated 16-11-2007 of the Hon'ble High Court. However, the order itself was made available to the Tribunal by the management on 20-1-2008 after receiving the certified copy issued to it on 15-1-2008. Thereafter the matter was taken up, but due to non-availability of the witness, Shri A.K. Bhattacharya and due to number of applications moved on behalf of the management and time sought by it to bring the stay order from the Hon'ble High Court after the application was disposed of by the Tribunal on 21-2-2008. A letter was sent

by this Tribunal as well for extension of time on 30-1-2008 to the Hon'ble High Court who has granted further extension of time for three months as informed by the learned Advocate for the management on 2-5-2008 vide its order dated 30-4-2008 to ensure compliance of the order dated 16-11-2007 and as such the matter has been further taken up and it stands now concluded after hearing the argument of the learned Advocates appearing for the parties on 29-7-2008. In this connection it is also evident that a date for 31-1-2008 was fixed for evidence of the management as the learned Advocate for the workman stated that no further evidence was to be adduced on behalf of the workman. The management, however, instead of giving its own evidence, moved an application dated 31-1-2008 for recalling the workman Jayanta Banerjee for the purpose of investigation and proper adjudication to which the learned Advocate for the workman raised objection and after hearing the submissions of the parties, the application was rejected by this Tribunal vide order dated 21-2-2008 on the ground that since the workman himself did not choose to adduce any fresh evidence and closed it and the Hon'ble High Court had given an option to the management to examine the author of the document, Ext. W-1 viz. Shri A.K. Bhattacharya, the management could itself examine the witness if it so liked.

The management thereafter examined one witness, Shri Raghaw Prasad, MW-2 and took time for examining the author of the document, Ext. W-1 Shri A.K. Bhattacharya who was MW-3 as produced on 26-3-2008 and thereafter on 2-5-2008 and on 6-5-2008 when his cross-examination was finally concluded in this connection. The management, however, moved an application for amendment of pleadings thereafter to bring facts regarding the period of work done by the workman in paragraphs 7 to 10 of its written statement which was allowed after hearing the parties. The matter finally as such was concluded on 30-6-2008 when the case was fixed for argument of the learned Advocate for the parties who had argued this matter before this Tribunal on number of dates from 17-7-2008 to 29-7-2008 accordingly.

15. An application dated 28-7-2008 has also been moved in this connection by the learned Advocate for the management praying that the Tribunal should pass an order rejecting an attempt on behalf of the workman to rely upon the document, Ext. W-1 as he had not adduced any evidence after the case has been so remanded by the Hon'ble High Court vide order dated 16-11-2007 in spite of an opportunity given to him both by the Hon'ble High Court as well as by this Tribunal and the concerned officer, A.K. Bhattacharya has already given his evidence denying the document, Ext. W-1 to be a genuine or correct document purported to have been signed by him. Learned Advocate for the workman, however, has strongly opposed it and submitted that the matter has to be considered as it stands on the record and as per evidence so adduced by the respective

parties both before the order of remand as well as after the matter has been so remanded to this Tribunal by the Hon'ble High Court for the same in this connection.

16. I have considered the aforesaid submissions and perused the facts relating to this aspect of the matter as well. It is evident that the Hon'ble High Court vide its order dated 16-11-2007 has categorically given a direction to this Tribunal to give a fresh Award after giving the parties an opportunity of adducing further evidence which clearly means that the evidence already taken on the record as well as further evidence to be given by the either side will have to be considered in arriving at necessary conclusion for the same. The Hon'ble High Court also has clearly observed in its order dated 16-11-2007 that the document, Ext. W-1 which has been a point in controversy between the parties has to be examined about the facts and figures stated therein as to whether the same were correct or not and in this connection the Tribunal has also been asked to give an opportunity to the parties to adduce further evidence as they have so relied upon it. It is evident that the workman did not adduce any further evidence, but it relied on the evidence already it had been so adduced by him which consisted of his own statement given before this Tribunal and also the document Ext. W-1 as it had been so filed by him in this regard. The management, no doubt, has adduced further oral and documentary evidence consisting of two witnesses, namely, Raghav Prasad and A.K. Bhattacharya together with the documents, Ext. M-4 and M-5 said to be the official records maintained in office in order to support its claim and contention that the document, Ext. W-1 does not tally with the same and as such it should not be relied upon. Since both the parties have pressed their claim and contentions based on their respective oral and documentary evidence so adduced by them on record, the matter has to be considered one way or the other as per their respective submissions made by the learned Advocate for the parties on either side for the same and also it has been so directed by the Hon'ble High Court in this regard.

17. As regards the preliminary points raised by the learned Advocate for the management touching the jurisdiction of the Tribunal and maintainability of the reference by submitting that the schedule of reference as it stands does not show to be an industrial dispute which exists between the employers in relation to the management of Calcutta Telephones and their workman so as to come within the purview of Section 2 (k) of the Act which only means any dispute or difference between the employers and employees or between employers or workmen or between the workmen and workmen which is contrary to the claim of the present workman individually so raised by it and as such it cannot be an industrial dispute under section 2 (k) of the Act. It has also been argued by him that the workman concerned also does not come within the definition of workman as defined in Section 2 (s) of the Act which means any person employed in any industry to do

any manual, unskilled, skilled, technical, operational, clerical or supervisory work for higher or reward in relation to an industrial dispute. Since the workman as per his own case and also as per schedule of reference itself had been a casual workman he cannot be said to be a workman as defined in the Act and has no legal status or legal right as such to claim to be a workman to raise an industrial dispute as it is so being tried by him in this regard. In support of it he has also placed reliance on 2006 SCC 702=2006-11-LLJ-1119 (M.P. Housing Board & Anr. V. Manoj Shrivastava) to say that a casual worker has got no locus standi to claim any such right of regularization/absorption and also he cannot challenge the order of dismissal, discharge or retrenchment which constitute an industrial dispute as per provision of Section 2(k) of the Act. It is also submitted that the provisions of Section 2A which relates to a claim challenging dismissal of an individual workman and which may deem to be an industrial dispute also does not help him as there is no such case of the workman that the employer had discharged/dissmised or retrenched or otherwise terminated the services of the workman who had only been a casual worker and his appointment as such does not confer any legal right to him at all. It is also submitted that the workman did not raise any such dispute prior to filing of the present claim before this Tribunal for the relief of reinstatement, regularization etc. to the management and in case no such dispute had been so raised prior to the making of reference under Section 10(1) of the Act by the appropriate Government, any such reference so made by the appropriate Government to this Tribunal is without any basis and void and it has got no legal sanctity and so the Tribunal itself has got no jurisdiction to adjudicate any such matter. It is also submitted that the plea regarding lack of jurisdiction and the lack of existence of any such industrial dispute in case it is not so raised and it goes at the very root of the matter and such the demand of a casual worker cannot become an industrial dispute so as to be adjudicated by this Tribunal at all. In this connection he has laid much stress on the case law of the Hon'ble Supreme Court in the case of Sindhu Resettlement Corpn. Ltd. v. Industrial Tribunal (1968-1-LLJ 834) saying that mere demand asking the appropriate Government to refer the dispute for adjudication without a dispute being so raised by the workmen with their employer regarding such demand, it will not and cannot become an industrial dispute so as to be referred by the Government under Section 10 of the Act for its adjudication. Hence an industrial dispute cannot be said to exist until and unless a demand had been so raised and made by the workman or workmen on the employer and the same was so rejected by the employer in this regard. In this connection reliance has been placed on the decision of the Hon'ble Calcutta High Court in 1975 (30) FLR 106 (Deepak Industries Ltd. v. State of W.B.) where it was held that the amended Section 2A makes it clear that when an individual dispute is not supported by other workmen or espoused by the union of

workmen even then it would not be deemed to be an industrial dispute within the meaning of the Act. It was further held that it is an industrial dispute, i.e., is a dispute raised by an individual, it must be raised by him and reference may be made in due course for adjudication under the Act. Apart from that it has also been argued that by the learned Advocate for the management that as per schedule of reference the workman claiming himself to be a casual worker has not legal right to claim any such relief for regularization or for absorption for alleged termination of his services with effect from 1-1-1989 which is also not supported by any such piece of evidence so as to show that any such order of termination in fact was ever so passed against him by the management. In the absence of any such material or evidence the very reference is also ultravires for its adjudication and as held by the Hon'ble Supreme Court in (2006) 2 SCC 702 a casual worker has got no right to claim for regularization or any relief under Section 25F of the Act and no such right is available to him at all on this count. Also there is no question of challenging the order of termination of his services which in fact was never so terminated by the management passing any such order on 1-1-1989 at all. It has also been argued relying on this aspect of the matter saying that there had been no basis of appointment of the workman also on the basis of the document, Ext. W-1 which cannot be said to be a document of employment as also it has been so observed by the Hon'ble High Court while making its observation in the order dated 16-11-2007 as well for the same. Unless any such payer is made by the workman prior to making of the reference itself, his claim for regularization or reinstatement etc. cannot be gone into for its adjudication by the Tribunal as well in this regard. It is also submitted that the document, Ext. W-1 which is said to be a basis of the claim of the workman is also not sufficient to show his claim so proved about the period of work done by him as it is materially so different to what is so contained in other document, Ext. W-3 documents filed by the management viz. Exts. M-4 and M-5 which show the period of work done by him to be 90 days only and in case both the documents are there as it has been so filed in this case on behalf of the workmen as well, the document, Ext. W-1 cannot be taken to be correct at all as the document, Ext. W-3 also stands so proved by the statement given by him as well as by the management witness, MW-1 Baldeo Prasad Shah goes to show that this document is quite different to the contents of the document, Ext. W-1 so far as the period of work is concerned as set up by the workman in this regard. Therefore the workman cannot get any such benefit in view of all this glaring facts and mistake in this regard. For this he has particularly referred to the statement of Shri Shah at page 2 of the examination in chief to say that the document, Ext. W-3 was prepared by the witness A.K. Bhattacharya, MW-3 showing the days of work done by the workman was 90 days only.

18. Learned Advocate for the workman, however, has submitted that the demand of the workman had already been raised and made to the management both prior to the reference as well as during the conciliation proceedings and this fact has also been so reiterated by the workman both in paragraph 6 and 7 of the written statement filed by him in this regard as well as in the statement given by him to say that several verbal representations to reinstate him in service were made and the management only had given a verbal assurance that they would consider the case in due time but no action had been taken by the management in this regard and which led to the present industrial dispute for which this reference has been at his instance by the Government to this Tribunal for its adjudication. In support of it he has also placed reliance on the decision of the Hon'ble Supreme Court in the case of Shambhu Nath Goyal v. Bank of Baroda (1978-1-LIJ 484 at page 486 paragraph 5) to say that :

"5. Thus the term 'industrial dispute' connotes a real and substantial difference having some element of presidency and continuity till resolved and likely if not adjusted to endanger the industrial peace of the undertaking or the community. When parties are at variance and the dispute of difference is connected with the employment, or non-employment or the terms of employment or with the conditions of labour there comes into existence an industrial dispute. To read into definition the requirement of written demand for bringing into existence an industrial dispute would tantamount to re-writing the section."

19. I have considered the aforesaid submissions and perused the aforesaid facts and the oral and documentary evidence relied upon on either side. It is evident that the plea raised on behalf of the management touching the jurisdiction of the Tribunal or maintainability of the reference on the aforesaid ground is not legally maintainable and it has got no force to deny the claim of the workman on any of the aforesaid ground. It is evident that even if there is some lacuna, the order of reference does not become invalid ab initio and the defect can be made good by filing an affidavit later on to show that the condition precedent was satisfied. Furthermore, mere wording of the order of reference is not decisive in the matter of tenability of a reference. Likewise, the absence of indication that the dispute was under Section 2(k) or Section 2A in the order of reference, will not go to show that it is not an industrial dispute within the meaning of either of the two provisions. Such absence of indication will not invalidate the order of reference since the law does not require the Government to do so. If a question does arise as to whether the dispute is one as defined under Section 2(k) or Section 2A, it is for the adjudicating authority to ascertain the same from the material on record. Whether a dispute referred to the industrial tribunal is an industrial dispute under Section 2(k) or Section 2A of the Act is of no consequence so far

as the Tribunal's power to adjudicate is concerned, and that formal defects in citation of reference will not oust the jurisdiction if the Tribunal. The decision of the Hon'ble Calcutta High Court in the case of *Steel Authority of India Ltd. v. H.S. Employees Union* [1998-I-LLJ 704(Cal)] may be referred to in this connection.

20. On the facts as submitted by the parties in this connection it is evident that the workman admittedly had so worked with the management as a casual worker in the year 1987, though the period of work is differently stated according to the respective claims of the parties to be 1987 and 1988 in this regard. The definition of workman in Section 2(s) of the Act itself goes to show that it refers to any person employed in an industry. The first two parts as defined go to show that it give statutory meaning of a workman. The second part includes the person who has been dismissed, discharged or retrenched in connection with an industrial dispute. The first part brings the concept of contract of employment between employer of an industrial establishment and its employee. Unless there is a contract of employment between the two or in other words if there is no relationship of employer and employee between them the definition of workman will not come into play. But, once the relationship of employment is established, its duration would not be material. Even a temporary or casual employee would fall within the ambit of this part of definition of workman as it has been so laid down in *The Chief Engineer (Irrigation), Cheapak, Madras v. N. Natesan* [1973-II-LLJ 446 (Madras Division Bench)], *Tapan Kumar Jena v. General Manager, Calcutta Telephones* [1981 Lab. I.C. (NOC) 68 (Calcutta Division Bench)] in this regard. In view of that every person employed in an industry irrespective of his status be it temporary, permanent, probationer, daily wage, part-time worker would be a "workman" as per provisions of Section 2(s) of the Act and there is no question of the reference being not maintainable on this ground challenging the status of the workman that he being a casual worker will not be a workman under Section 2(s) of the Act as it has been so submitted by the learned Advocate for the management in this regard. The Tribunal has got its full jurisdiction to entertain such dispute as it so raised on behalf of the workman for its adjudication.

21. The learned Advocate for the management has also raised its objection based on the same ground that the workman since being a casual worker and without having been appointed by way of a proper selection under rules and his name having not been sponsored by the Employment Exchange and further that the nature of his job being casual, he also cannot be granted any such relief of regularization or permanent absorption which is not legally open to a casual worker engaged by the management from time to time as and when it was so required and without there being any permanent sanctioned post available to it for his absorption or regularization as has been so claimed

by him in this regard. He has also placed reliance on the case law viz. (2006) 2 SCC 702= 2006-II-LLJ-119 (*M.P. Housing Board & Anr. V. Manoj Shrivastava*) to say that :

"14. It is now well-settled that only because a person had been working for more than 240 days, he does not derive any legal right to be regularized in service. (See *Madhyamik Shiksha Parishad, U.P. v. Anil Kumar Mishra & Others*, 2005 (5) SCC 122; *Executive Engineer, ZP Engg. Divn. & Another v. Digambara Rao and Others*, 2004(8) SCC 262; 2005-I-LLJ-1; *Dhampur Sugar Mills Ltd. v. Bhola Singh*, 2005 (2) SCC 470; 2005-I-LLJ-1084; *Manager, Reserve Bank of India, Bangalore v. S. Mani & Others*, 2005 (5) SCC 100; 2005-II-LLJ-258; and *Neeraj Awasthi (supra)*."

22. I have considered the above submissions so made by the learned Advocate for the management and find force to the extent that there is no question of granting any relief to the workman for his regularization or permanent absorption in the services as it is an admitted fact to the workman as well that his appointment had not been so made to any sanctioned post under rules after a proper competition and selection so held for this purpose. Also it is admitted by him that his name was not sponsored by the Employment Exchange in this regard, but his claim is only based on the ground that he had been engaged by the management as a casual worker from time to time and that he had so worked for more than 240 days prior to his alleged date of termination of his service with effect from 1-1-1989 and that too without following the provisions of Section 25F of the Act and this clearly amounts to a retrenchment under Section 2 (oo) of the Act and the management admittedly did not pay him the retrenchment compensation and notice pay which was a condition precedent to retrenchment as it has been so provided by Section 25F of the Act in this regard. In support of it learned Advocate for the workman has also referred to number of case laws as mentioned in paragraphs 9 and 12 of the written statement as well as during the course of argument and also stated about it in the statement given by the workman on oath before this Tribunal as well for the same in this regard. It is evident that the judgment of the Hon'ble Supreme Court in *Secretary, State of Karnataka & Others. V. Umadevi (3) and Others* (2006-II-LLJ-722), paragraph 34 has clearly laid down that adherence of rule of equity in public employment is a basic feature of our Constitution. Unless the appointment is in terms or relevant rules and after proper competition amongst the qualified persons, same would not confer any right on the appointee. It has also been laid down therein in paragraph 38 that when a person enters a temporary employment or gets as a contractual or casual worker and the engagement is not based on a proper selection as recognized by the relevant rules or procedure, he is aware of the consequences of the appointment being temporary, casual or contractual in nature. It has also been held therein that appointment made purely on contractual

and ad-hoc basis the appointee had no right to continue in the post and to claim regularization in service in the absence of any rule provided for regularization after the period of service. Considering this aspect of the matter, the question of granting any relief for regularization or permanent absorption to the workman does not arise at all and as it has been rightly argued by the learned Advocate for the management as well in this connection. As regards the other plea raised by the workman which is based on the provisions of Section 25F of the Act for making an order of retrenchment of his services which were so terminated, the matter has to be looked into and considered as submitted by the parties and evidence led by them for the same in this connection.

23. It is evident that according to the workman he had worked for more than 240 days preceding his termination of service with effect from 1-1-1989 and also as per his claim vide schedule of reference together with the facts alleged in the written statement for the same. The plea is found to have been based on the ground that according to him he had worked for more than 240 days in the years 1987 and 1988 before his service were so terminated with effect from 1-1-1989 without any reason whatsoever even after he had worked for two years or so in the department doing a continuous service. This plea is so based on a certificate alleged to have been issued by the concerned S.D.O.P., Zone-IV, Shri A.K. Bhattacharya vide Ext. W-1 which shows particulars of casual labourers engaged after 30th March, 1985 and showing the name of the concerned workman along with 10 other persons therein. The workman also had given his statement on oath before this Tribunal saying that he joined the service on 2-2-1987 as a Shramik and had worked under Shri A.K. Bhattacharya and Mondal Saheb. It is also stated by him that no appointment letter was issued, but he had been asked to join verbally and such working of his will appear from ACG-17 form of 1988, attendance register of 1988 and the certificate of Shri A.K. Bhattacharya issued in 1990 which is as such was marked Ext. W-1 while his statement had been so recorded before this Tribunal in this regard. It is also stated by him that he was not paid any retrenchment compensation or notice pay. This document at that time had been marked as Ext. W-1 without objection and so the learned Advocate for the workman has submitted that in case the document had been so marked as exhibit without objection from the other side, it cannot be later on challenged or shown to be otherwise as forged or fabricated since the legal position is well-settled about it by the decisions of the Hon'ble Supreme Court in AIR 1972 SC 608 (P.C. Purushothama v. S. Perumal), AIR 2003 SC 4548 (R.V. E. Venkatachala Gounder v. A.V. & V.P. Temple) and AIR 2004 SC 4082 (Dayamathi Bai v. K.M. Shafi) wherein it has been laid down that any such objection is to be taken at trial before the document is marked as exhibit and

admitted to record and not thereafter. It is also found that the witness was also cross-examined about the document, Ext. W-1 and particularly regarding the source and manner in which he had so received the document Ext. W-1 to be filed on the record for this case. The learned Advocate for the management has, however, challenged it by relying upon the statement as it has been so given by Shri A.K. Bhattacharya, MW-3 said to be the author of the document Ext. W-1 who has stated it to be incorrect and also that it does not tally with the official record so kept in the office, i.e., Exts. M-3, M-3/1, M-4 and M-5 in this connection the learned Advocate for the management has also referred to the statement of other witness examined on behalf of the management viz. Raghaw Prasad, MW-2 who also had not supported the claim of the workman.

24. I have considered respective claims and contentions of the parties and perused the evidence on the record. It is evident that the document, Ext. W-1 is the basis of the claim of the workman to show the particulars of the alleged work done by him in the years 1987 and 1988. Hon'ble High Court also has given a direction to consider the facts and figures as per Ext. W-1 vis-a-vis the claim of the either side and particularly the statement given by the author of the document, Ext. W-1, i.e., A.K. Bhattacharya, MW-3 and other evidence so adduced by the parties in this connection.

25. Considering the facts on record regarding the period of work done by the workman it is evident that the initial burden lies on the workman to prove that he had so worked for 240 days or more preceding the date of termination of his services so that any such benefit may be available to him as per provisions of Section 25F of the Act. The burden has to be discharged by him by giving a positive evidence as it is so available to him in this regard. The workman in order to discharge this burden had given his statement on oath and also he had relied upon Ext. W-1 that was also marked exhibit at the time of recording his examination in chief. It has also been stated by the workman both in his written statement and also on oath that the certificate mentioning the particulars of work done by him was so issued by Shri A.K. Bhattacharya showing the name of the concerned workman and other workmen who had so worked along with him. Apart from that, it was also stated by him that he had also put his signature on the attendance register and was paid the amount through ACG-17 vouchers from time to time. This fact has also come in the evidence of the witnesses examined on behalf of the management. MW-1, Baldeo Prasad Shah, the Deputy Area Manager, City of Calcutta Telephones who has proved the vouchers, Ext. M-1 showing the payments which were so made to casual workers and particularly the period of work done by the concerned workman i.e., for 76 days. It has, however, been stated by him in cross-

examination at page 4 that "When the casual workers are engaged locally neither there is provision, nor do we maintain any register to show who are the casual labourers engaged and what are the amount paid to them. No register is maintained in the department to show who are the casual workers engaged and what amount are paid, loose sheet of paper is maintained in that regard. From those loose sheets we prepare the ACG vouchers. We throw the loose sheets away after the ACG-17 vouchers are prepared..... We throw away loose sheet of pay and those loose sheets cannot be traced out thereafter." As regards the document, Ext. W-1 and the alleged mistake in its preparation as per submission made on behalf of the management in paragraph 7 of the written statement it has been stated by him that the alleged certificate (Ext. W-1) is only a departmental office document and subsequently on scrutiny it was found that the said statement Ext. W-1 was wrong and incorrect. His statement in the cross-examination to this effect is also there to say that during the years 1987 and 1988 only the cases of 10 persons in Ext. M-3/1 the mistake was found by Mr. Bhattacharya and a corrected statement as per Ext. M-3 is filed. No step has been taken by the management making query on Shri Bhattacharya as to why he made such mistake in making the statement as per payment vouchers. It is also stated by him that ACE-2 account is permanent record which shows who are the casual workers paid for their work. The management has not filed the ACE-2 accounts for the year 1987 pertaining to Shri Jayanta Banerjee, but it is available. The statement of Shri Raghav Prased, MW-2 is of no help as he could not recognize the signature in Ext. M-3 and he also never worked under Shri A.K. Bhattacharya. The statements of Shri A.K. Bhattacharya, MW-3 which has been recorded before this Tribunal go to show that according to him the concerned workman worked for 90 days only in 1987. Original document has been signed by him and that Ext. W-1 is not a correct document and so he did not know anything about this document and moreover it is a Xerox copy which could not be taken as an authentic document. In the cross-examination this witness admitted that there is no such endorsement of the office regarding Ext. M-4 that the office had received it from him. He pleaded his ignorance to say about the filing of the document ACE-2 by the management in this regard. He also could not say about the statement given about the period of work done by the workman in the year 1987 for 76 days as per assertions made by Shri B.K. Ghosh who had filed the written statement of the management about it and allegations made in paragraph 7 of the written statement and reiterated that his own statement is correct for the same in this connection. In this cross-examination the witness was put specifically regarding the correctness of the document, Ext. W-1 and his reply was that "This is a Xerox copy so cannot be taken as authentic document. In this Xerox copy the number of days shown against the concerned workman

are not correct. They have not worked for 240 days or more. So, I cannot say whether it is correct or incorrect. This is my answer."

26. Considering the respective evidence led by the parties and particularly the author of the document Ext. W-1, Shri A.K. Bhattacharya on the one hand and the statement given by the workman to prove the alleged particulars about the work done by him, it is evident that both the sides have put forward their own claims and contentions in this regard to support their respective case as set out by them in their pleadings. It is also evident that the nature of appointment of the workman had been that of casual in nature and no formal appointment letter had been issued to him. It is also evident that the initial burden which lie upon the workman has been discharged by him stating the facts on oath and also he has filed documentary evidence Ext. W-1 as it was so available to him and which has been also marked as exhibit without any objection having been raised by the management at the time of recording his examination in chief and for that also he had been fully corss-examined on behalf of the management regarding the source of its availability. The existence of this document, no doubt, has been denied and challenged by the management saying it to be forged one, but the circumstances and the evidence led on either side together with the facts as stated in paragraph 7 of the written statement so filed by the management itself clearly go to show that the existence of this certificate, Ext. W-1 was not denied or challenged by the management as well in this regarding as it was stated that it was "only a departmental office document and subsequently on scrutiny it was found that the said statement was wrong and incorrect." This fact by itself goes to show that this office document was certainly there and was prepared in the office, though of course on scrutiny it was found to be a wrong and incorrect one and this was the reason that it led to correction of the document by getting prepared yet another document by Shri A.K. Bhattacharya, MW-3 who has also given his statement to this effect in this regard by relying on Ext. M-3. MW-1, Sri Baldeo Prased Shah the Deputy Area Manager, City of the Calcutta Telephones also had reiterated this fact at page 4 of his cross-examination wherein it has been stated by him that since the mistake was found by Shri Bhattacharya and he corrected his statement as per Exts. M-3 and M-3/1. Learned Advocate for the management also tried to support the above fact and his contention in this regard by filing the original record, Ext. M-5 saying it to be so maintained in the office. The above facts so asserted on behalf of the management however does not appear to be full and correctly so brought in the record that the document in fact had been so prepared and then kept on the record after it had been so corrected by way of its scrutiny. In case the management had been so

particular to assert it that the statement Ext. W-1 being wrong was so corrected, it was quite natural to have been so kept on the record showing that Xerox copy, Ext. W-1 from which it was so taken was incorrect and it also must have been the part of the record of the original file, Ext. M-4 relied upon by the management by filing it for the first time before this Tribunal to show its bonafides about the correction made of the document, Ext. W-1 said to be a departmental office note only as stated about it in paragraph 7 of the written statement of the management in this regard. Apart from that the ACE-2 accounts, which is permanent record showing payments to the casual workers from time to time for their work for the period 1987 and 1988 which also had been so available to the management as it was so stated by MW-1, Baldeo Prased Shah at page 5 of his cross-examination could also have been filed in order to throw light on this aspect of the matter, but the same also had not been filed by the management in this case. Besides that it also did not file the attendance sheet, copy of muster roll etc. so as to show the facts so stated and claimed by the workman in this connection to be false or otherwise about the period of work done by him. It is evident that the workman had stated all these facts on oath as well as on the basis of document available to him, i.e., Ext. W-1, but the management did not file the attendance sheet etc. to rebut the claim of the workman in this regard. Employer's failure to produce the attendance register to controvert the workman's claim as to the number of days he had actually worked, will lead to an inference of the correctness of the workman's claim as it has been so held by the Hon'ble Supreme Court in *H.D. Singh v. Reserve Bank of India*, (1985) 4 SCC 201: 1985 SCC (L&S) 975.

27. In view of the aforesaid facts and circumstances and looking at the respective claim of either side it is evident that in case the workman has discharged his initial burden to prove the facts regarding the period of work so done by him, i.e., he had worked for 240 days in the year preceding the date of his termination, it was the duty of the management to have rebutted the same by filing a cogent evidence to disprove it and show it otherwise and in case it has not been done, the burden so cast upon the management has not been so discharged by it. In a recent judgment by the Hon'ble Apex Court, i.e., in *Yellatti R.M. v. Assistant Executive Engineer* (2006-1-LLJ-442) it has been held that "We find that this Court has repeatedly taken the view that the burden of proof is on the claimant to show that he had worked for 240 days in a given year. This burden is discharged only upon the workman stepping in the witness box. This burden is discharged upon the workman adducing cogent evidence, both oral and documentary. In cases of termination of services of daily wage earner, there will be no letter of appointment or termination. There will

also be no receipt or proof of payment. Thus in most cases the workman (claimant) can only call upon the employer to produce before the Court the nominal muster roll for the given period, the letter of appointment or termination, if any, the wage register, the attendance register etc. Drawing of adverse inference ultimately would depend thereafter on the facts of each case." Looking at the facts and circumstances of the present case thus it is very much evident that the management has not produced any such evidence which can rebut the claim of the workman in this regard. The pleadings also does not present a consistent view regarding the period of work so done by the workman as to whether it has been 76 days or 90 days. The workman in this case had also called for the attendance register and documents showing payments etc. which were made to him by the management during the conciliation proceedings as well as before this Tribunal by stating these facts in his written statement as well as rejoinder filed in this regard.

28. In view of the aforesaid facts and circumstances it is evident that the assertions of the workman about the period of work so done by him for 240 days and more preceding the date of alleged termination of his services w.e.f. 1-1-1989 stands fully corroborated and proved by the evidence led before this Tribunal. Since admittedly there was no such compliance of the provisions of Section 25F of the Act before termination of his services though it was a condition precedent to retrenchment of the services of the workman in this regard as it was said to have been terminated verbally with effect from 1-1-1989, the impugned order of termination cannot be said to be justified, legal or proper for lack of compliance of provisions of Section 25F of the Act which as held in *Mohan Lal v. Bharat Electronics* (1981-II-LLJ-70: (1981) 3 SSC 225: 1981 SCC (L&S) 478] to be illegal and void ab initio. Same view was taken by the Hon'ble Apex Court in several other decisions on this point viz. *State of Bombay & Ors. v. Hospital Mazdoor Sabha & Ors.*, AIR 1960 SC 610: 1960-I-LLJ-251; *Surender Kumar Verma & Ors. v. Central Government Industrial Tribunal, New Delhi*, AIR 1981 SC 422: 1980 (4) SCC 443: 1981-I-LLJ-386; *Bombay Union of Journalist & Ors. v. State of Bombay & Anr.*, AIR 1964 SC 1617: 1964-I-LLJ-351.

29. So far as relief to be granted to the workman is concerned, it is no doubt true that Industrial Tribunal has got jurisdiction and power to direct reinstatement of the workman in case of wrongful termination of services for want of compliance of Section 25F of the Act, but there are exceptions to this rule and these exceptions are also recognized by number of judgments of the Apex Court in this regard. In the case of *Haryana Tourism Corpn. Ltd. v. Fakir Chand & Ors.*, AIR 2003 SC 4465: 2003 (8) SCC 248: 2004-I-LLJ-265, the Hon'ble Supreme Court had only directed to make payment of compensation of Rs. 70,000,

instead of reinstatement with 25% back wages taking into consideration factors like (a) workers were daily wagers, (b) workers were not recruited through employment exchange or regular mode of selection, (c) services of the workers were terminated long back, and (d) considering nature of work and the workers must have done similar work at least intermittently. In number of such matters Hon'ble High Court have also examined this issue and it has also been held that where a long period has lapsed since the date of termination, compensation should be paid in lieu of reinstatement and back wages. In somewhat similar circumstances, the Hon'ble Apex Court in *Rolston John v. Industrial Tribunal-cum-Labour Court*, 1995 SCC (L&S) 142 where 18 long years lapsed since termination of service of the workman without complying with Section 25F of the Act awarded monetary compensation in lieu of reinstatement.

30. Looking at the facts of the present case it is evident that the concerned workman had worked only for two years or so as a casual worker. It is also evident that now about more than 19 years have elapsed since the dates of termination of his services on 1-1-1989 and he has not rendered any service at all to the employer, i.e., Calcutta Telephones. In view all these facts and circumstances of the case, instead of granting a relief for his reinstatement with full back wages, it appears to be just and proper and also keeping number of factors in mind that an industry may not be compelled to pay to the workman for the period during which he apparently contributed a little or nothing at all and as it is so laid down by the Hon'ble Apex Court in *Haryana Roadways v. Rudhan Singh* (2005 AIR SCW 4634) that such workman who had only worked for a short period for a year or two and even if the termination of his service was found to have been made in violation of Section 25F of the Act, a reasonable amount of compensation may deserve to be awarded to him in this regard. The observations of the Hon'ble Apex Court in this connection as guidelines deserve to be quoted as it says that :

"There is no rule of thumb, that in every case where the industrial Tribunal gives a finding that the termination of service was in violation of Section 25-F of the Act, entire back wages should be awarded. A host of factors like the manner and method of selection and appointment, i.e., whether after proper advertisement of the vacancy or inviting applications from the Employment Exchange, nature of appointment, namely, whether ad hoc, short term, daily wage, temporary or permanent in character, any special qualification required for the job and the like should be weighed and balanced in taking a decision regarding award of back wages. One of the important factors, which has to be taken into consideration, is the length of service, which the workman had

rendered with the employer. If the workman has rendered a considerable period of service and his services are wrongfully terminated, he may be awarded full or partial back-wages keeping in view the fact that at his age and the qualification possessed by him he may not be in a position to get another employment. However, where the total length of service rendered by a workman is very small, the award of back wages for the complete period, i.e., from the date of termination till the date of the award, which our experience shows is often quite large, would be inappropriate. Another important factor, which requires to be taken into consideration is the nature of employment. A regular service of permanent character cannot be compared to short or intermittent daily wage employment though it may be for 240 days in a calendar year."

In another decision viz., *Allahabad Jal Sansthan v. Daya Shankar Rai*, (2005) 5 SCC 124: 2005 AIR SCW 2646 also the Hon'ble Apex Court has made a similar observation saying it as under:

"We have referred to certain decisions of this Court to highlight that earlier in the even of an order of dismissal being set aside, reinstatement with full back-wages was the usual result. But now with the passage of time, it has come to be realized that industry is being compelled to pay the workman for a period during which he apparently contributed little or nothing at all, for a period that was spent unproductively, while the workman is being compelled to go back to a situation which prevailed many years ago when he was dismissed, it is necessary for us to develop a pragmatic approach to problems dogging industrial relations. However, no just solution can be offered but the golden mean may be arrived at."

31. In view of that instead of granting relief for reinstatement with back wages to the workman even if the order of termination of his services found to be illegal and legally not justified for want of compliance under Section 25F of the Act, he may be said to be entitled to get a relief for compensation only. Looking at the nature of his work and its period a lump sum compensation of Rs. 35,000 (Rupees thirty five thousand) deserve to be so awarded to the concerned workman accordingly. The aforementioned amount shall be paid to the concerned workman by the management within a period of a month from the date of this Award becomes enforceable.

The reference is answered accordingly.

C. P. MISHRA, Presiding Officer

Dated, Kolkata, The 31st July, 2008

नई दिल्ली, 11 अगस्त, 2008

क्रा. आ. 2510.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सूचना विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ स. 87/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-2008 को प्राप्त हुआ था।

[सं. एल-40012/32/2006-आई.आर. (डी.यू.)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 11th August, 2008

S.O. 2510.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 87/2006) of the Central Government Industrial Tribunal-cum-Labour Court No.1, Chennai, as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of Department of Telecom and their workman, which was received by the Central Government on 11-8-2008.

[No. L-40012/32/2006-IR(DU)]

AJAY KUMAR GUAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT CHENNAI

Monday, the 23rd June, 2008

PRESENT

K. Jayaraman, Presiding Officer

Industrial Dispute No. 87/2006

[In the matter of the dispute for adjudication under clause(d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Bharat Sanchar Nigam Ltd. and their workman.]

BETWEEN

Sri P. Rajaganesan : 1st Party/Petitioner

And

The Principal General Manager
Bharat Sanchar Nigam Ltd. Vellore
Coimbatore

: 2nd Party/Respondent

APPEARANCE

For the Petitioner : M/s. P.V.S. Giridhar
Associates

For the Management : M/s. A. Radharakrishnan
& R. Priyakumar

AWARD

The Central Government, Ministry of Labour vide its Order No. L-40012/32/2006-IR(DU) dated 17-10-2006 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the Management of Principal General Manager, Coimbatore in terminating the services of their workman Sri P. Rajaganesan w.e.f. 02-06-2003 is legal and justified? If not, to what relief the workman is entitled to and from which date?

2. After the receipt of the Industrial Dispute, this Tribunal has numbered it as ID 87/2006 and issued notices to both sides. Both sides entered appearance through their Advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations in the Claim Statement are briefly as follows:

The petitioner (Rajaganesan) entered service as Driver in the Respondent Management on 01-08-2001 at the Office of the Sub-Divisional Telecom, BSNL, Veechapandi and he was assigned to drive the departmental vehicle (Van) bearing No. TN-38-L8-235. Along with this work, he has also performed additional work of Lineman. The Respondent Management maintained Trip Sheet and Log Book in which the petitioner made his signature regularly. The petitioner work was under the supervision of Sub-Divisional Engineer, Sri N. Kulandaisami and Junior Telecom Officer, Smt. T. Jayanthi. while so on 02-06-2003 the petitioner was informed that this services was no more required. But, the Respondent did not issue any notice or assign any reason for his termination. The action of the Respondent orally terminating the services of the petitioner is arbitrary, unreasonable and in violation of principles of natural justice. It also amounts to unfair labour practice. No retrenchment compensation has been paid nor has any notice for retrenchment been issued to the petitioner. The order of termination is also in violative of Section-25(N) of the ID Act. Hence the petitioner raised a dispute before the labour authorities and the conciliation ended in failure and therefore the Conciliation Officer submitted a failure report and the Govt. has referred the dispute to this Tribunal. Hence, the petitioner prays this Tribunal to direct the Respondent to reinstate him in service with backwages and all other consequential benefits.

4. As against this, the Respondent in his Counter Statement alleged that the petitioner is not an employee of the Respondent BSNL. He was neither appointed as an employee nor was he removed as such. He was engaged only on daily wages during those days when regular Drivers were not available. It is false to allege that the petitioner performed additional duties of Lineman. The petitioner was engaged as and when regular Driver was not available and therefore he is not in service in BSNL. As such, the question of termination, issue of notice and other formalities did not arise at all. There is no violation of principles of natural justice nor any unreasonableness on the part of this Respondent. Since the petitioner is not an employee, there is no need for rational notice to the petitioner and compensation. The petitioner is not workman and he is not entitled to any relief in the petition for the work done by

him on those days as he was engaged and paid daily wages. then and there. Hence, for all these reasons, the Respondent prays that the claim may be dismissed with costs.

5. The points for determination are :

- (i) Whether the action of the Respondent in terminating the services of the petitioner Sri P. Rajaganesan is legal and justified?
- (ii) To what relief the petitioner is entitled to?

Point No.1

6. The case of the petitioner in this case is that he was appointed as Driver on 01-08-2001 in the Respondent Management and he has served as such till he was orally terminated on 02-06-2003. He alleged that he has worked more than 240 days in a continuous period of 12 months and he has also signed in the Trip Sheet and also the Log Book maintained by the Respondent authorities. Since he has worked more than 240 days in a continuous period of 12 months, even assuming for argument sake that the Respondent is to disengage the petitioner from the work, he has to follow the mandatory provisions of Section-25(F) of the ID Act and notice of pay and compensation should have been given to him. On the other hand, no notice nor any compensation was paid to the petitioner and, therefore, the order of termination is illegal and void ab initio. In order to establish his case, the petitioner examined himself as WWI and produced 42 documents which are marked from Ex.W1 to Ex.W42. As against this, on the side of the Respondent one L.K. Suresh, Sub-Divisional Engineer (Legal) is examined as MWI. The documents produced by the petitioner are copies of the Wage Register from the month of August 2001 to October 2002 and the copies of the Log Book entries and signed by the petitioner from August 2001 to April 2003. The petitioner also produced the copy of the Conduct Certificate issued by the Divisional Engineer, Tiruppur and also the Conduct Certificate issued by the Sub-Divisional Engineer of BSNL, Veerapandi, Tiruppur. Besides that the petitioner also produced the copy of the two Gate Passes issued to him when he worked with the Respondent Authorities. In order to prove that he has worked as a Messenger, he has produced the copy of the list of persons to whom he delivered the WILL phone while working as a Driver. He has also produced the copy of the representation given to the Respondent Authorities as Ex.W42. The learned counsel for the Petitioner argued that the petitioner has discharged his initial burden that he has worked more than 240 days in a continuous period of 12 months preceding his disengagement by producing the copy of the entries in the Wage Register and also the Log Book Register. But the Respondent Management which denies the allegation of the petitioner that the petitioner has not worked continuously for a period of 240 days has not produced any document to rebut the evidence adduced by the petitioner. Further, from the documents produced by the petitioner it is clear that the petitioner has worked 26 days in August 2001, Sept. 2001, October 2001 and 25 days in November 2001, December 2001 and February 2002 and

28 days in April 2002 and June 2002 and 29 days in March 2002 and May 2002. From these circumstances it is clear that the petitioner has worked more than 293 days in a continuous period of 12 months and, therefore, even assuming that the Respondent Management wanted to disengage the petitioner, they have to follow the mandatory provision of Section-25(F) and, therefore, the oral termination made by the Respondent Authorities is illegal and not valid. Further, he relied on the ruling reported in 2007, 4, SCC, PAGE 94, SHRIRAM INDUSTRIAL ENTERPRISES LTD. VS. MAHAK SINGH AND OTHERS wherein the Division Bench of the Supreme Court held "when the workman has discharged his initial onus by producing the documents in their possession then it is bounden duty of the Respondent Management to disprove or to rebut the allegation of the petitioner by producing the documents in his custody but when the best evidence having been withheld, the Courts are entitled to draw such adverse inference from the circumstances".

7. But as against this, the learned counsel for the Respondent contended though the petitioner alleged that he was appointed as a Driver under the Respondent Management, he has not produced any Appointment Order to prove the same nor produced any document to show that he was a employee under the Respondent Management. He was only engaged on daily wage as Driver when regular Drivers were not available. It is false to allege that he has performed additional duties as Lineman or Messenger. Since the petitioner was engaged as and when the regular Driver was not available, he is not entitled to reinstatement nor regularization. The petitioner is not in service of BSNL, therefore, the Question of termination, issue of notice and other formalities did not arise at all and the petitioner is not entitled to any relief in this application and he relied on the ruling reported in 2006 4 SCC 1, SECRETARY, STATE OF KARNATAKA AND OTHERS VS. UMA DEVI AND OTHERS and he argued even assuming for argument sake that he was temporarily appointed as a Driver by the Sub-Divisional Engineer or Junior Telecom Officer, the said persons have no authority to recruit any person as Driver since the BSNL has got rules and regulations for recruitments and since the petitioner is not appointed as a Driver by following the regular Recruitment Rules, he is not entitled to claim any benefits. He further argued in the above Full Bench Judgment of the Supreme Court, it is observed "Absorption, regularization or permanent continuance of temporary, contractual, casual, daily wage or ad-hoc employees appointed/recruited de hors the constitutional scheme of public employment is not valid and the Supreme Court also held the issuance of interim directions in such case by the High Court may not be justified". It is also observed further "the Union, the States, the Departments and Instrumentalities have resorted to irregular appointments especially in the lower rungs of the service without

reference to the duty to ensure a proper appointment procedure through the Public Service Commission or otherwise as per the rules adopted and to promote these irregular appointees or those appointed on contract or on daily wages, to continue year after year, thus, keeping out those who are qualified to apply for the post concerned and depriving them the opportunity to compete for the post. It has also led to persons to get employed without following the regular procedure or even through the backdoor entry or on daily wages" and in that judgment, the Full Court has depreciated the temporary appointments made by the lower rung officers without following the regular procedure or recruitment rules. The learned counsel for the Respondent further argued in this case though the petitioner alleged that he was appointed by the Sub Divisional Engineer of Veerapandi, it is not for a regular post and he has no authority to do a regular appointment of a Driver for the department. Therefore, on that score the petitioner cannot claim any regularization or reinstatement, therefore this petition is not maintainable.

8. Though, I find some force in the contention of the learned counsel for the Respondent, in this case the petitioner has established that he has worked more than 240 days in a continuous period of 12 months preceding his disengagement, under such circumstances, the Respondent is to establish that the inference drawn from the document produced by the petitioner is not a true one and the petitioner has not worked more than 240 days in a continuous period of 12 months and the Respondent is to establish before this Court as to what reasons he has not followed the mandatory provisions under Section-25(F). The petitioner has not asked for regularization or permanent post in the Respondent Management, on the other hand, he only requests this Tribunal that since the Respondent Management has not followed the mandatory provisions of Section-25(F) of the ID Act, the order passed by the Respondent is illegal and void ab initio. I find much force in the contention of the learned counsel for the petitioner that from the documents produced by the petitioner, it is clear that he has worked for more than 240 days in a continuous period of 12 months preceding his termination. As such, the Respondent Management who has not followed the mandatory provisions of Section-25(F), the order passed by the Respondent is not valid in law, therefore, I find this point in favour of the petitioner and against the Respondent.

Point No. 2

The next point to be decided in this case is to what relief the petitioner is entitled?

9. In view of my foregoing findings that the action of the Respondent Management in terminating the services of the petitioner is not legal and justified, I find the petitioner is entitled to the relief of reinstatement. Then next question that arises for consideration is from which date the petitioner is entitled to reinstatement. In this case, the

petitioner alleged in his claim statement that from 2-6-2003 he was disengaged by the Respondent orally, this fact has not been disputed by the Respondent Authorities. Though the petitioner has alleged that he has not worked from the date of disengagement, I find the petitioner is not entitled to full back wages as claimed by him. On the other hand, in the circumstances shown before this Tribunal, I find half of the back wages is sufficient to satisfy the claim of the petitioner, therefore, I direct the Respondent to reinstate the petitioner forthwith and the petitioner is entitled to half back wages and all other consequential benefits.

10. Thus, the reference is answered accordingly.

(Dictated to the PA, transcribed and typed by him, corrected and pronounced by me in the open Court on this day the 23rd June, 2008)

K. JAYARAMAN, Presiding Officer

Witnesses Examined:

For the I Party/Petitioner : WWI Sri P. Rajagancsan

For the II Party/Management : MWI Sri L.K. Suresh

Documents Marked :-

On the Petitioner's side

Ex. No.	Date	Description
(1)	(2)	(3)
Ex. W 1	07-09-2001	Wages for the month of August 2001
EX. W 2	01-10-2001	Wages for the month of Sept. 2001
Ex. W 3	01-11-2001	Wages for the month of Oct. 2001
Ex. W 4	07-12-2001	Wages for the month of Nov. 2001
Ex. W 5	01-01-2002	Wages for the month of Dec. 2001
Ex. W 6	11-02-2002	Wages for the month of Jan. 2002
Ex. W 7	13-03-2002	Wages for the month of Feb. 2002
Ex. W 8	09-04-2002	Wages for the month of March 2002
Ex. W 9	07-05-2002	Wages for the month of April 2002
Ex. W 10	01-06-2002	Wages for the month of May 2002
Ex. W 11	01-07-2002	Wages for the month of June 2002
Ex. W 12	06-09-2002	Wages for the month of July 2002

(1)	(2)	(3)	(1)	(2)	(3)
EX.W13	01-10-2002	Wages for the month of Aug. 2002	EX.W 37	—	Conduct Certificate issued by the Divisional Engineer BSNL, Tiruppur
Ex.W 14	16-11-2002	Wages for the month of Sept. 2002	Ex.W38	—	Conduct Certificate issued by the Divisional Engineer BSNL, Veerapandi, Tiruppur.
Ex.W 15	07-11-2002	Wages for the month of Oct. 2002	Ex.W 39	15-03-2004	Gate Pass issued to the petitioner
Ex. W16	August, 2001	Log Book signed by the petitioner	Ex.W 40	23-03-2004	Gate Pass issued to the petitioner.
Ex. W17	Sept., 2001	Log Book signed by the petitioner	Ex.W 41	—	List of the persons to whom the petitioner delivered the WLL Phone while working as a Driver.
Ex. W18	October, 2001	Log Book signed by the petitioner	Ex.W 42	04-08-2003	Representation to the Principal General Manager, BSNL, Coimbatore.
Ex.W19	November, 2001	Log Book signed by the petitioner	On the Management's side :-I		
Ex.W 20	December, 2001	Log Book signed by the petitioner	Ex.No.	Date	Description
Ex.W 21	January, 2002	Log Book signed by the petitioner		Nil	
Ex. W 22	February, 2002	Log Book signed by the petitioner		नई दिल्ली, 11 अगस्त, 2008	
Ex.W 23	March, 2002	Log Book signed by the petitioner		का. आ. 2511.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार नेशनल इंस्टीट्यूट ऑफ टेक्नोलॉजी के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय गुवाहाटी के पंचाट (संदर्भ सं. 01/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-2008 को प्राप्त हुआ था।	
Ex.W 24	April, 2002	Log Book signed by the petitioner		[सं. एल-42012/71/2006-आई.आर.(डी.यू.)] अजय कुमार गौड़, डेस्क अधिकारी	
Ex.W 25	May, 2002	Log Book signed by the petitioner		New Delhi, the 11th August, 2008	
Ex.W 26	June, 2002	Log Book signed by the petitioner		S.O. 2511.—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14, of 1947), the Central Government hereby publishes the award (Ref. No. 01/2007) of the Central Government Industrial Tribunal-cum-Labour Court Guwahati, as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of National Institute of Technology, and their workmen, which was received by the Central Government on 11-8-2008.	
Ex. W 27	July, 2002	Log Book signed by the petitioner		[No. L-42012/71/2006-IR(DU)] AJAY KUMAR GAUR, Desk Officer	
Ex.W 28	August, 2002	Log Book signed by the petitioner			
Ex.W 29	September, 2002	Log Book signed by the petitioner			
Ex. W 30	October, 2002	Log Book signed by the petitioner			
Ex.W 31	November, 2002	Log Book signed by the petitioner			
EX.W32	December, 2002	Log Book signed by the petitioner			
Ex. W 33	January, 2003	Log Book signed by the petitioner			
Ex.W 34	February, 2003	Log Book signed by the petitioner			
Ex.W 35	March, 2003	Log Book signed by the petitioner			
EX.W36	April 2003	Log Book signed by the petitioner			

ANNEXURE
IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT GUWAHATI—
ASSAM.

PRESENT

Sri H. A Hazarika, Presiding Officer

CGIT-Cum-Labour Court, Guwahati.

In the matter of an Industrial Dispute between:

The Management of National Institute of
Technology, Silchar.

-Vrs-

Their Workmen Smt. Archana Pukeystha.

Ref. Case No. 01 of 2007.

APPEARANCES

For the Management : Sri R. P. Kakoti,
Advocate.

Sri A. K. Dutta,
Advocate.

For the Workmen : None appeared.

Date of Award : 1-8-2008

AWARD

1. The Government of India, Ministry of Labour New Delhi vide its Notification No. L-42012/71/2006-IR(DU) dated 28-11-2006 referred this Industrial Dispute arose between the Management of National Institute of Technology, Silchar and their workman Smt. Archana Pukeystha in exercise of power conferred by Clause-(d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Dispute Act, 1947(14 of 1947) for adjudication on the basis of the following Schedule :-

SCHEDULE

“Whether the action of the management of National Institute of Technology (NIT), Silchar in terminating the services of their workman Smt. Archana Pukeystha, w.e.f. 21-7-2003, is legal and justified? If not, to what relief the workman is entitled to?”

2. On being notified the matter is proceeded for adjudication and to pass Award here as per procedure.

3. The case of the workman Smt. Archana Pukeystha in brief from her Written Statement sent by Post is that she was working in National Institute of Technology, Silchar as a Skilled Muster Roll Worker since 5th May, 2000 on admissible remuneration basis and on regular basis. In meeting held on 30-09-2000, to decide the issue of 36 numbers of MR employees, the matter was put up before Board of Governors, the highest authority. The Board observed the strength of the MR employee is too large than desirable. But considering they are working for many years they may be continued to work. However, economy must be observed as far as possible. The periodic routine renewal of 89 days has not been issued to her after expiry

of her term from 20th July, 2003, defying the decision of the Board of Governors. When the renewal order was not issued to her, she requested the authority on 1st August, 2003 to do needful but the order has not been issued till date. She has intimated the authority concerned that she has been singled for victimization and the authority did not pay heed to her fact. She approached the respective Asstt. Regional Labour Commissioner(C) Silchar and conciliation meetings were held and the authority also attended first two meetings but remained absent in the subsequent two meetings. The authority NIT, Silchar claimed that their department is not within the purview of Industries.

4. The case of the Management in brief that National Instituted of Technology, Silchar, not being industry is not within the purview of the Industrial Dispute Act, 1947. Hence the instant reference case is liable to be dismissed.

5. That as alleged the workman Smt. Archana Pukeystha was never appointed by the National Institute of Technology, Silchar. She was simply engaged for a limited period as MR daily wage worker, her disengagement can not be treated as termination within the meaning of the above act. The engagement of daily wage Muster Roll employee is granted only if there exists any requirement. That the service of Smt. Archana Pukeystha was not felt necessary after the expiry of her previous terms of engagement on 20-07-2003. Hence, there was no illegality on the part of National Institute of Technology, Silchar, in not re-engaging her.

6. In spite of receiving notices and inspite of sending written statement by post the workman never cared to attend this Tribunal even after adjournment on number of occasions. After giving number of adjournments when the workman Smt. Archana Pukeystha did not appear for evidence, the evidence of the Management recorded exparte.

7. For the Management Sri Santosh Kumar Srivastava, Dy. Registrar, National Institute of Technology, Silchar appeared as witness for the management. The brief contention of his evidence is that Smt. Archana Pukeystha was engaged as a MR worker for 89 days on 2nd February, 2001 till 1st May, 2001. After working 89 days there was a gap of one day and she was again engaged with effect from 3-5-01 to 30-7-01. Similarly in other occasions also she was engaged for period of 89 days with a gap of one day. She was not engaged by NIT, Silchar. After 21st July, 2003 no appointment letter was issued to her. For casual and extra work for temporary period MR labourers are engaged for a term of 89 days. MR employees are not employees of NIT. That the NIT department is presently 100% under Rules and regulation of the Central Government as regards engagement of Muster Roll Workers.

8. Heard exparte argument submitted by learned Advocates Sri R.P.Kakoti and Sri A.K.Dutta for the Management.

9. On careful scrutiny of the record on merit I find there is procedure for engagement of 89 days. The workers engaged for 89 days can not claim for regularization. I find the workman was engaged with effect from 23rd April, 2003 to 20 July, 2003. After that she was not appointed and engaged for a period of 89 days. As per her written statement admittedly she is Muster Roll employee. Hence, for not engaging for further period the Management is not liable. Hence, the Management has not done any injustice to the workman. The workman is not entitled for any relief.

10. Prepare the award and send it to government as per procedure immediately.

H. A. HAZARIKA, Presiding Officer

नई दिल्ली, 11 अगस्त, 2008

का. आ. 2512.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार टेलीकॉम फैक्ट्री के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 11 मुम्बई के पंचाट (संदर्भ सं. सी. जी. आईटी-2/30 ऑफ 2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-2008 प्राप्त हुआ था।

[सं. एल-40011/8/96-आई आर (डी यू)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 11th August, 2008

S.O. 2512.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-2/30 of 2002) of the Central Government Industrial Tribunal-cum-Labour Court No. 11, Mumbai, as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of Telecom Factory, and their workmen, which was received by the Central Government on 11-8-2008.

[No. L-40011/8/96-IR(DU)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL No. 2, MUMBAI.

PRESENT

A. A. Lad, Presiding Officer

Reference No. CGIT-2/30 of 2002

Employers in Relation to the management of Telecom
Factory

The Chief General Manager
Telecom Factory
Deonar
Mumbai-400 088

AND

Their Workmen

The General Secretary
Rashtriya Telecom Employees &
Workers Union,
D-63, Sarita, Vishwakarma Nagar
Mulund(W)
Mumbai-400 080.

APPEARANCES

For the Employer : Mr. S. B. Kadam Advocate.

For the Workmen : Mr. J. H. Sawant Advocate.

Mumbai, Date 10th July, 2008

AWARD

The Government of India, Ministry of Labour by its Order No. L-400 11/8/1996/IR(DU) dtd. 13-03-2002 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of Telecom Factory, Department of Telecom, Mumbai in not considering the candidature of Sh. T. C. Kamble, Examiner for the post of Inspector in response to the notice dated 24-05-1994 and not giving him all consequential benefits is legal and justified? If not, to what relief the workman is entitled?"

2. Claim Statement (Ex-6) is filed by the concerned workman Shri Kamble in support of his demand stating that, he is working with first party as Mazdoor from 5-9-97. Then he was promoted to the post of Fitter Grade-I w.e.f. 28-5-85. He was qualified in trade test and as a result of it, he was transferred to Shop no. 13 as Examiner w.e.f. 1-3-89.

3. By notice dated 24-05-1994, applications were invited for selection of candidates for two posts of Inspectors to fill in Shop No. 13. Out of these posts, one was reserved for SC candidate and other one reserved for ST candidate. The candidate also requires five years experience as Examiner to file such an application. According to workman, he filed application for said post of Inspector but his application was not considered. So he made representation on 29-07-1994 and again by letter dated 04-08-94, he requested first party to inform him of the reason why his application is not considered and it was replied by first party by letter dated 24-08-94 observing that, second party workman is not eligible to appear for the post of Inspector.

4. According to second party, he was illegally prevented in appearing for post of Inspector. No reason was assigned while discarding his claim. Other candidate who was junior to him was permitted to appear for the post of Inspector. So it is submitted that, decision taken by first party in ignoring claim of second party Kamble and not considering for the post of Inspector he treated not just

and proper and he be declared as Inspector with effect from 24-5-95.

5. This prayer is objected by first party by filing reply Ex-9 stating that, second party workman Kamble was not eligible to appear for the trade test of Inspector since he was not possessing the eligibility condition laid down under the rules. Such candidates require to be an Examiner in the skilled trade, and requires five years experience as Examiner. As Kamble was neither Examiner in skilled trade nor he was in possession of requisite experience in the grade of Examiner, he was not considered and decision taken by first party was just and proper. It is denied that, purposely claim of the second party Kamble was ignored. It is denied that, injustice is caused on Kamble and he was deprived of promotion. Since Kamble was not qualified and eligible to appear for the post of Inspector, decision was intimated and it was just and proper.

6. In view of above pleadings, my Learned Predecessor framed issues at Ex-12 which I answer as follows:

Issues	Findings
1. Whether the action of the management Telecom Factory, Department of Telecom, Mumbai in not considering the candidature of Shri T.C. Kamble, Examiner for the post of Inspector in response to the notice dated 24-05-1994 is legal and justified?	Yes
2. Whether the action of the management in not giving him consequential benefits is legal and justified?	Yes
3. What relief the workman is entitled to?	As per order below

REASONS

Issues Nos. 1 & 2 :-

7. By this reference second party Kamble raised dispute about his claim over post of Inspector stating that, first party purposely ignored his claim on the post of Inspector and said decision was intimated to him by notice dated 24-05-94 which was not legal & just. Whereas stand of first party is that, second party Kamble was not eligible to permit to appear for post interview and consider on the post of Inspector. He was having no qualification of Examiner in the skilled trade and five years experience as Examiner.

8. To support that, second party Kamble place reliance on his evidence led by him by way of affidavit filed in lieu of examination-in-chief Ex-21. In the cross he admits that, he failed in two initial tests and did not appear in third and fourth tests. He admits that, no training was provided to him. He admits that, he acquired status of Examiner. He

admits that, he did not pass trade test as he did not appear for the same. Besides first party's evidence produced at Ex-23 reveals that, second party was not eligible to appear for the post of Inspector and was not having experience of five years.

9. Second party filed written Arguments at Ex-26 whereas, first party at Ex-27. This argument is nothing but reproduction of their pleadings.

10. This Tribunal passed award regarding subject matter of reference on 25-4-2007. Said was challenged by second party by filing Writ Petition No.8489 of 2007. Considering the grievances of second party, who was petitioner in above Writ Petition, Hon'ble High Court remanded this reference for reconsideration. Observing that:

"However, a perusal of the award of the Tribunal would show that the Tribunal was not duly apprised of the Rules which governed inter alia changes in trade. The rule to which a Reference has already been made hereinabove, have not been taken note of by the Tribunal. The award of the Tribunal would, therefore, appear to have been rendered without taking cognizance of all applicable rules and without considering in particular, the condition of eligibility which is prescribed in the notice"

So from this direction, Hon'ble High Court asked this Tribunal to reconsider the case of second party workman in the light of rules referred observing those were not apprised while passing award.

11. After remand, second party filed fresh affidavit at Ex-36 stating that rule referred by Hon'ble High Court in para 9 & 10 of Judgement are already placed on record with Ex-24/2 and Ex 13/25. According to him, as per those rules, his candidature for the post of Inspector should have to be considered as per notice dated 24-5-1994. However his candidature was not considered. He was deprived of promotional opportunity and all consequential benefits. on account of unlawful action on part of first party. He further stated in affidavit that, there were two vacant posts as per notice dated 24-5-94. One was reserved of SC Category other one for ST category. He states that, he belongs to SC Category and the candidate Shri R.B. Thakur who was junior to him was considered for promotion for the post of Inspector w.e.f. 11-12-1995. He further states that, as per seniority and gradation list filed by him with Ex-24/3 his name is at serial no.52 whereas name of Thakur is at 74. He further states that, his name was at 53 in the seniority list of Examiner filed at Ex-14/1 whereas Thakur is at serial no.74. He further states that, he is entitled to consequential benefits of promotion to the post of Inspector w.e.f. 11-12-1995 as done in case of Thakur who is junior to him in service. One more post was filled by giving promotion to Kamble who is SC employee who is also junior to him. According to him, he being a candidate

of SC category and is entitled to get promotion. In the cross he states that, two posts were notified by notice dated 24-5-94. He further states that, one of it was reserved for SC category and another was reserved for ST category. He admits that, 11 employees applied as per Ex-13/22 for said post. He admits that, out of them six are from SC category and two from ST category. He admits that, there was no general candidate among them. He states that, as per page 24 of Ex-13, candidate Thakur shown at Sr. No.7 and was qualified in the results. He admits that, he is comparing with that Thakur in his affidavit dated 3-7-2008 who is shown at Sr. No.7 of page 24 Ex-13. He admits that, as per page 50 of Ex-14, two posts of SC and 1 post of ST category was carried forward. He admits that, Thakur is shown promoted against ST category as shown on page 51 in Ex-14. On that second party closed evidence by filing purshis Ex-37. At this stage, first party decided not to lead evidence and filed closing purshis Ex - 38.

12. Both were heard orally. The Advocate, Shri J.H. Sawant appearing for second party submits that, second party has 5 years experience as required for shop No. 13 when posts were filled. He submits that, there were two SC posts vacant. Shri Thakur who is at Sl. No.74 was promoted ignoring second party workman who is at Sl. No.52 in Seniority list. Even he was not permitted to appear in the interview alleging that he is not qualified. Whereas Advocate appearing for first party Shri Kadam submits that, second party was not eligible for consideration of promotion. Even he was not eligible to recommend his name for trade test as he was not coming within the "zone of consideration". He submits that, for each post, 5 names required to be sent. Since there was vacancy for 2 posts one for SC category and one for ST category, 5 candidates of SC category who were senior to second party workman were coming within "zone of consideration" as second party was at Sr. No.7 in the seniority list of SC candidates and was not eligible to consider for the promotional post. He submits that, against that Thakur who is compared by second party belongs to ST category and as per Seniority list he was second and he comes within "zone of consideration" and as he was recommended and he was selected for the post of promotion under ST category.

13. If we peruse notice dated 24-05-1994 by which Department of Telecommunications invited application for selection of candidates by ES-32-19/94 (45) for 2 posts of Inspector for Inspection Shop No. 13 in the scale of pay of Rs. 1400—2300. Reservation of 2 posts is shown - one for SC candidate and one for ST candidate. It is further mentioned that in case, suitable candidate from SC category is not found, ST candidate will be considered. As per eligibility Rule No. 1, Examiner from shop No.13 must have previous experience of five years as on 16-6-1994. Besides that candidate should be responsible for mechanical and electrical instructions. He should be responsible for stores, components, tools including gauges, jigs, fixtures etc. and

also for distribution of work to examiners in the Section. Said candidate should guide Examiners in their work and set out inspection schedule as required wherever required. Besides he is supposed to maintain shop time book and all other record. He is held responsible for proper maintenance of all measuring instruments as referred above. He is supposed to maintain all records required in English and able to read drawings, sketches, circuit diagram, inspect schedule and specification. He is also supposed to operate precision measuring apparatus such as shadowgraphs, hardness testing machines etc. He is also supposed to have knowledge to work out dimension for simple gauges. He is also supposed to carry out detailed testing of all types of Sw/Bds and other allied equipments. He is supposed to maintain discipline in workshop. He is supposed to carry out any other incidental miscellaneous duties. In the said notice syllabus is given at the bottom mentioning that, candidate should have atleast 5 years experience as Examiner Gr-I (Elec. or Mech.). He is also supposed to maintain all record in English. He is also supposed to possess elementary knowledge of electricity and magnetism. He is supposed to read drawing and specification charts. He is supposed to draw inspection schedules and able to operate precision apparatus such as shadowgraph etc. He should be able to conduct functional test. He is supposed to have basis knowledge of above materials and must be conversant with workshop and able to organise work in his section for smooth and efficient working. In the said notice dated 24-5-94, nature of trade test is explained, and as per that, it should be written test to judge the candidates standard of literacy, knowledge of English, Arithmetic, Geometry, Electricity and Magnetism. He was also supposed to have practical knowledge regarding syllabus. He should appear for oral examination or any other test on the basis of the above syllabus. So as per notice dated 24-05-1994 only 5 years experience is not sufficient. Presuming that he is eligible for promotions, as per notice dated 24-05-1994, said person require all other things which are reproduced above and which are printed on the notice dated 24-05-1994 produced by first party with Ex-13.

14. The another contention taken by first party is that second party is not coming in "zone of consideration" and that type of specific case is made out in Written Statement as well as in the evidence. Here second party admits that 2 posts which are involved in the reference belong to one for SC category & one for ST category. He also admits that he is comparing with R.B. Thakur who is at Sr. No.24 in seniority list. He further admits that said Thakur belongs to ST category. Whereas his case is that he belongs to SC category. According to first party, there should be separate candidate for SC and ST category and at the most 5 candidates for each post who has previous experience can apply to claim said promotion. Page 22 of Ex-13 was referred to second party in the cross. Second party admits that 6 candidates were of SC category and 2 out of them were of ST category as shown on page 22 Ex-13. As per

page 24 of Ex-13 he admits that R.B.Thakur was shown qualified. If we peruse page 22 Ex-13 we find, person at Sr. Nos. 1 & 8 are shown of ST category and person at Sr. Nos. 3 to 6 and 9 to 11 are shown of SC category. Page 22 reveals that second party shown at Sr. No.11 against which remark is shown "not eligible". First party has produced copies of some rules with Ex-33 under the title of Rules and Procedure for conducting Trade Test. On the 2nd page of it Rule 5 mentions that :

On receipt of applications, this should be scrutinized and eligible workers should be identified. The number of workers identified should not be more than 5 times the number of vacancies. In case of promotion to Sr. Grade, viz Mazdoor, Helper, Fitters, Mast Sr. etc. senior most workers equivalent to the number of vacant posts should be allowed to appear in the said Trade Test.

15. The learned Advocate for first party emphasizes on it and submits that as per this rule there should not be more than 5 candidates for each post. According to him, page 22 of Ex -13 which shows status of second party at Sr. No.6 which is beyond Sr. No.5 which reflect his not coming within the "zone of consideration" as said position does not permit second party to appear for Trade Test as he was not coming within the "zone of consideration". As far as status of second party is concerned, he was at Sr. No.6 on page 22 in SC candidates which is admitted to him. When page 22 of Ex-13 reveals that second party is at Sr. No. 6 in SC candidate and when 5 candidates are only eligible, for the promotional post of one vacancy as per Rule 5 of Ex-33 and candidates more than 5 candidates cannot be recommended for one post, there claim of the second party itself withers away. When admittedly only one post of SC category was available, and when second party does not come within "zone of consideration" though he was having experience of 5 years but he unable to satisfy another condition of "coming in zone of consideration" does not permit him to claim entitlement of promotion. Besides only because he is qualified, it does not mean that he is entitled for promotion. As referred above notice dated 24/05-1994 it expects number of competitions to be complied by the employee and it cannot be treated as fulfilled by said candidate only because he has previous experience. According to me, previous experience is one of the criterion or condition to claim recommendation of name for promotion. According to me, it does not mean that only because he has previous experience, he is entitled for promotion and entitled for consequential benefits of the promotion. Here he did not appear for Trade Test. He was not recommended for Trade Test. Even he did not pass Trade Test. Besides he was not coming under the zone of consideration. When he is not coming in zone of consideration and when he did not appear for Test and passed it, in my considered view second party is not entitled for relief sought in the reference.

16. In view of discussions made above and in the light of rules of the first party, I conclude that, decision taken by first party in not considering the candidature of second party for the post of Inspector is just and proper and as a result of that he is not entitled for any benefits. So, I answer these issues to that effect and passes the following order :

ORDER

Once more reference is rejected with no order as to cost.

Date: 10-07-2008

A .A. LAD, Presiding Officer

नई दिल्ली, 11 अगस्त, 2008

का. आ. 2513.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इम्प्लाइज प्रोविडेंट फण्ड आग्रेशन के प्रबंधन के संबंध में निवेदन और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय नं. -2 मुम्बई के पंचाट (संदर्भ सं. सी. जी. आई टी-2/98 ऑफ 2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-2008 को प्राप्त हुआ था।

[सं. एल-42012/184/2004-आईआर (सी.एम-11)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 11th August, 2008

S.O. 2513.—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-2/98 of 2005) of the Central Government Industrial Tribunal-cum-Labour Court No.2, Mumbai, as shown in the Annexure, in the Industrial dispute between the management of Employees Provident Fund Organisation, and their workmen, received by the Central Government on 11-8-2008.

[No. L-42012/184/2004-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT

A. A. Lad, Presiding Officer

Reference No. CGIT-2/98 of 2005

Employers in relation to the management of Regional Provident Fund Commissioner, Goa

The Regional Provident Fund
Commissioner, Employees Provident
Fund Organisation, Bhavishya Nidhi
Bhavan, 24, Pato Plaza, Panaji
Goa-403 001.

And

Their Workmen

The Vice President; Employees
Provident Fund Staff Union, Bhavishya
Nidhi Bhavan 24, Patto Plaza, Panaji
Goa-403 001.

APPEARANCES

For the Employer : Mr. P. P. Singh, Advocate.

For the Workmen : Mr. P. Gaonkar, Representative

Mumbai, Dated 25th June, 2008

AWARD

The Government of India, Ministry of Labour by its Order No.L-42012/184/2004-IR(CM II) dated 4-8-2005 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication :

“Whether the action of Regional Provident Fund Commissioner, Goa in compulsorily retiring Shri R.M.Sakhardande w.e.f. 9-12-2003 is legal and justified? If not, to what relief the workman is entitled?”

2. In support of demand claim statement is filed by the concerned workman at Ex-5 making out case that, he is member of Employees Provident Fund Staff Union which is registered Trade Union. He was appointed on 01-05-1973 at Mumbai and was transferred to Goa. By order dated 09-12-2003, he was compulsorily retired. According to second party decision taken by first party of retiring workman compulsorily is not just and proper and without following due process of law. Even he was as to vacate the quarters though his case was pending before Conciliation Officer. According to second party, the decision taken of his voluntary retirement was not as per procedure. In fact there is shortage of staff as the employees working are loaded with work more than 200 times of normal work. So it is submitted that decision of compulsorily retirement be declared not just and proper and be set aside with direction to reinstate.

3. This is disputed by first party by filing reply at Ex-7 making out case that, second party has not approach this Tribunal with clean hands. The designation of concerned workman is suppressed. Actually he is working as ‘Supervisor’ on monthly salary of Rs.11,321/-. Said salary and designation does not permit second party to claim as ‘workman’ and on that count alone reference of second party requires to be dismissed. It is further stated that, he was doing duties of examining all receipts pertaining to his section and to distribute them properly. He was supposed to check the receipts. Besides he was supposed to ensure that, all immediate receipts in each section are put up on the date of receipt. He was supposed to scrutinize the notes and drafts of clerks and ensure that all approved drafts are issued properly. He was also supposed to ensure the

inspection of the tables, racks of the staff. He was supposed to receive and issue returns and was supposed to maintain a personal notebook or his calendar of important cases. He was also supposed to maintain sectional note book and scrutinize the work dairy, inter-sectional movement register, file register and other concerned registers. He was also supposed to distribute work equally and maintain annual work account. He was supposed to bring report, attend complaints and check the late attendance and maintain the order and discipline in the office. Since he is not a ‘workman’ as he was doing ‘supervisory’ work, he cannot come under the definition of ‘workman’.

4. Besides it is stated that, provisions of Industrial Disputes Act are not applicable to the concerned workman as he is in the cadre of ‘supervisor’. It is stated that decision taken by first party in compulsorily retiring concerned workman was taken in the public interest and is just & proper. This decision was based on the record and CR. So it is submitted that reference may be rejected.

5. In view of above pleadings, issues are framed at Ex-13 which I answer as follows:

Issues	Findings
(1) Whether Second party is a ‘workman’?	No
(2) Whether order dated 9-12-2003 in retiring compulsory Shri Sakhardande i.e. workman is just and proper?	Does not survive.
(3) Is Second party entitled for completion of service?	No
(4) What order?	As per order below.

REASONS

Issue No. 1 :

6. Issue of ‘workman’ is raised by first party making out case that, concerned workman involved in the reference was working on the post of supervisor and was having salary of more than Rs.11,321/- which is more than Rs.1,600/- per month which exclude second party from the definition of ‘workman’. About this nothing is stated by second party and concerned workman in the claim statement. However in the rejoinder filed at Ex-9 second party that stand of the first party. To support that, second party workman has filed affidavit in lieu of Examination-in-Chief Ex.-15. In the Cross he states that, he was appointed as LDC in 1973 and promoted in 2001 as Section Supervisor. He states that, seven persons were working in his section including LDC and UDC. He admits that, he was signing the form of ACR and forwarding to the Superior Officer. In 2003 he was retired compulsorily under rule 56(j). He denied that he was supervising work of LDCs. However he admits

that he was supervising the drafts, notes submitted by LDCs. He admits that he was checking attendance of LDC and UDC by signing at the bottom. He admits that, he was checking the claims column wise i.e. whether they are admitted, rejected and when they are received by checking on computer. He also admits that, he used to prepare annual progress report of the staff and was forwarding it to the superiors. He also admits that, he was supposed to see that the annual accounts of all establishments and compilations are made within time. He also admits that, adverse remarks were accounts communicated to him. He also admits that, review committee did not expunge those remarks. He admits that, he took benefits as an employee of Central Government. Then he closed evidence by filing purshis at Ex-17. Against that first party examined one Dhame at Ex-18 who denied the case of the second party and claims that second party is not a 'workman' and cannot claim relief under Industrial Disputes Act. In the cross, he states that concerned workman was appointed as LDC in Mumbai. He also admits that, there is promotion from LDC to UDC and then post of Head Clerk. Said post of Head Clerk is re-designated as Section Supervisor. When asked whether Head Clerk and Section Supervisor are one and same, he replied "Above Head Clerk there is promotion to the post of Assistant Accountant. He admits that, Section Supervisor does not have power to sanction leave of LDCs and UDCs. Then first party closed evidence by filing purshis Ex-20.

7. Second party's representative submitted that, he is 'workman' and without following due process of law he was compulsorily retired. No charge sheet was served. Retirement age is 60 whereas second party was retired at the age of 55. In addition to that he also filed Written Arguments at Ex-23 with copies of some citations.

8. Now we have to see whether second party is a workman or whether he can get benefits of Industrial Disputes Act or not? As stated by the first party, second party is silent in the claim about status of concerned workman. It is nowhere stated, what designation is of the workman and his salary and duties. Against that, in the Written Statement, First party has made out clear case that, second party was working as Section Supervisor getting monthly salary of Rs.11,321/-. Besides that first party described duties of second party in para. 6 of written statement by mentioning round about 37 duties about which is stated in rejoinder except simple denial. When first party claims that second party was getting monthly salary Rs. 11,321/- and working as 'Supervisor' which is limit for the employee to call as 'workman'. In my considered view, status of second party of 'supervisor' and his salary Rs. 11,321/-, which is not seriously disputed, does not permit second party to take benefits of the provisions of Industrial Disputes Act and seek any relief. Besides duties mentioned in para 6 of written statement are not specifically denied by second party. Besides, second party admits that concerned workman worked as Section Supervisor which is definitely not a status of 'workman' and it does not permit second

party to claim as a 'workman' and take benefits under the provisions of Industrial Disputes Act. Admittedly he was singing muster, checking the work, he was scrutinizing the reports, returns. Second party's advocate submitted copies of award of this Tribunal passed in Ref.CGIT-2/33 of 1996 where this Tribunal observed one Kubal as a 'workman' who was working in the Office of the Regional Provident Fund Commissioner, Panaji. However in that case, we find said workman Kubal appears working as Head clerk/Section Supervisor. He was elected as Secretary of the union. He was suspended. However in that case salary of said Kubal is not brought on record as happened in this case. So in my considered view, decision taken by this Court in case of Kubal while deciding Ref.CGIT-2/ 33 of 1996 cannot be followed as a guideline to treat this person as a 'workman' as happened in that case. According to me, this Tribunal can take its own decision and decision of Predecessor is not binding on this Tribunal while deciding different matter. It is not decision of this acting Presiding Officer. So person can differ from case to case. So when second party failed to prove that, he is 'workman', in my considered view he is estopped from taking benefits of provisions of Industrial Disputes Act and he raised dispute cannot be protected under Industrial Disputes Act under which he raised dispute. So I conclude that, he is not a 'workman'.

Issue No. 2:-

9. Second-party claim that dated 09-12-2003 in retiring him compulsorily is not just and proper. But when he failed to that, he is 'workman' cannot seek protection under Industrial Disputes Act. The prayer prayed before Appellate Authority cannot adjudicated before this Tribunal. Infact case of compelling second party to vacate service quarter is much made out mostly decision taken by the first party relying on record and his CR. Its that said CR was made known to him. He admits that, even disciplinary authority did not expunge those. When that is the position, and when superiors were not happy with his work they can retire him compulsorily in the public interest which happened in this case. So I conclude that, decision of compulsory retirement cannot be commented under guise of termination.

Issue No.3:-

10. Second party prayed to continue upto age of superannuation but he failed to prove that; he is 'workman' and that, decision of authority of compulsory retirement of first party. In my considered view, this second party cannot claim any relief. Accordingly, I answer this issue to that effect.

11. In view of discussions made above, I conclude that, reference require to be rejected. Hence the order:

ORDER

Reference is rejected
with no order as to cost.

Date: 25-06-2008

A. A. LAD, Presiding Officer

नई दिल्ली, 12 अगस्त, 2008

का. आ. 2514.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मै. बिहार स्टेट मिनरल डेवलपमेंट कॉर्पोरेशन लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय स.-1, धनबाद के पंचाट (संदर्भ सं. 68/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-8-2008 प्राप्त हुआ था।

[सं. एल-29012/189/98-आई.आर.(एम.)]

कमल बाखरू, डेस्क अधिकारी

New Delhi, the 12th August, 2008

S.O. 2514.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 68/1999) of the Central Government Industrial Tribunal-cum-Labour Court No.1, Dhanbad, now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. Bihar State Mineral Development Corp. Ltd. and their workman, which was received by the Central Government on 12-8-2008.

[No. L-29012/189/98-IR(M)]

KAMAL BAKHRU, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 1 AT DHANBAD

PRESENT

Shri H. M. Singh, Presiding Officer

In the matter of an Industrial Dispute under
Section 10(1)(d) of the I. D. Act, 1947.

Reference No. 68 of 1999

PARTIES

Employers in relation to the management
of Bihar Rajya Khanir Vikas Nigam Ltd.
and their workman.

APPEARANCE

On behalf of the workmen : None

On behalf of the employers : None

State : Jharkhand Industry : Mineral
Development

Dated, Dhanbad, the 4th August, 2008.

AWARD

The Govt. of India, Ministry of Labour, in exercise of
the powers conferred on them under Section 10(1)(d) of

the I. D. Act, 1947 vide their Order No.L- 29012/189/98-IR(M), dated 22nd April, 1999.

SCHEDULE

“Whether S/Shri Chandra Kand Prasad and Narayan Turi has worked for 240 days or more with the management of M/s. Bihar State Mineral Development Corporation Ltd. in terminating their services w.e.f. 12-12-1992 is justified? If not, to what relief the workmen are entitled to?”

2. In this reference both the parties abstained themselves from appearing before this Tribunal in spite of issuance of notices issued to them. Therefore, it appears that they are not interested to proceed with the case. Under such circumstances, a 'No dispute' Award is passed in this reference presuming non-existence of any industrial dispute between the parties.

H. M. SINGH, Presiding Officer

नई दिल्ली, 12 अगस्त, 2008

का. आ. 2515.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार साऊथ इंडिया माईन्स एवं मिनरल इंडस्ट्रीज लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चेन्नई के पंचाट (संदर्भ सं. आई. डी. सं. 416/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-8-2008 को प्राप्त हुआ था।

[सं. एल-29011/59/2004-आई.आर.(एम.)]

कमल बाखरू, डेस्क अधिकारी

New Delhi, the 12th August, 2008

S.O. 2515.—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central Government hereby publishes the award (Ref. No. I. D. No.-416/2004) of the Central Government Industrial Tribunal-cum-Labour Court Chennai, now as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of South India Mines & Minerals Industries Ltd. and their workmen, which was received by the Central Government on 12-8-2008.

[No. L-29011/59/2004-IR(M)]

KAMAL BAKHRU, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT CHENNAI

Tuesday, the 8th July, 2008

PRESENT

K. Jayaraman, Presiding Officer

Industrial Dispute No. 416/2004

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of South India Mines and Mineral Industries Ltd. and their workman.]

BETWEEN

The South India Mines and Mineral Industries Ltd.,
Sankar Nagar PO,
Thailaiyuthu R. S.,
Tirunelveli-627357

And

The General Secretary,
India Cements Employees,
Union Thailaiyuttu,
Sankar Nagar
Tirunelveli

APPEARANCE

For the 1st Party/Petitioner : S. Ramasubramaniam & Associates

For the 2nd Party/management : M/s Row & Reddy

AWARD

The Central Government, Ministry of Labour vide its Order No.L-29011/59/2004-IR(M), dated 27-9-2004 referred the following Industrial dispute to this Tribunal for adjudication:

The schedule mentioned in that order is:

"Whether the decision of the South India Mines and Mineral Industries Ltd., Sankar Nagar, Tirunelveli to pay Minimum Wages to the workers employed in the Lime stone Mines by terminating the All India Wage Settlement is legal and justified? If not, to what relief the India Cement Employees Union/workmen are entitled?"

2. After the receipt of the Industrial Dispute, this Tribunal has numbered it as ID 416/2004 and issued notices to both sides. Both sides entered appearance through their Advocates and filed their Claim Statement and Counter Statements respectively.

3. The allegations in the Claim Statement are briefly as follows:

The first party viz., South India Mines & Minerals Industries Limited formerly Agricultural Farms Ltd. is a Public Limited Company engaging in quarrying lime stones since 1951. The Petitioner/1st Party already holds a mining lease. Further, for the purpose of mining, the petitioner has entered into a lease agreement with the Government of Tamil Nadu under the provisions of Mines and Minerals

(Regulation and Development Act). In its lime stone mines, the petitioner had a production of about 2100 tonnes per day and it was supplied to a Cement Manufacturing Company called M/s. India Cements Ltd. under various agreements entered into from time to time. The first agreement was entered into in the year 18-09-1964 and last such agreement was entered into on 24-10-1990 for a period of 10 years. The Govt. of Tamil Nadu constituted a Cement Wage Board for fixing wages for employees in the Cement Industry and the above said India Cements Ltd. being part of Cement Industry was a party to the proceedings and in the First Cement Wage Board, the petitioner herein was sought to be continued as a party in the said proceedings on the basis that the bulk of the production of the Mines was supplied to India Cements Ltd. The dispute between the Cement Industry and its workmen having ended in a settlement. The petitioner company challenged the very applicability of the Award passed by the Cement Wage Board in so far as the petitioner is concerned before the Hon'ble High Court at Madras by way of Writ Petition in WP No. 7937, 7940 of 1983 but both these Writ Petitions were dismissed and thereafter Writ Appeals (W.A. Nos. 275-278 of 1986) were filed and they were also dismissed by the Division Bench and against which the petitioner filed a Special Leave Petition by the Hon'ble Supreme Court of India. During the pendency of these proceedings, the Respondent Union raised demand on the Management seeking increase in wages on par with the said settlement arrived at between the workmen of the Cement Industries and the Cement Manufacturing Association. The Petitioner Company made it clear that the above said settlement had no relevance and was not applicable to it. Now the petitioner agreed to give some increase in the wages and entered into an independent settlement dated 01-06-1990 under Section 18(1) of the ID Act. Subsequently, the Hon'ble Supreme court was pleased to dismiss the said SLP filed by the petitioner. However, over a period of years, the Management had entered into series of 18(1) settlements with the Respondent Union independent of the settlement entered into between the Cement Manufacturers' Association and the workmen of the Cement Industries. Therefore, the Cement Wage Board was not applied or adopted ipso facto. The last such settlement was entered into on 01-01-2001. While so, the agreement between the Company and the India Cements Ltd. pertaining to supply of lime stone over a period of years, quantum of off take by India Cements Ltd. came down progressively from 2100 tonnes per day to 400 tonnes per day during 1990. Therefore, the petitioner had to develop other customers for off takes of its production. The agreement dated 24-09-1990 entered into by the petitioner with India Cements Ltd. was for a period of 10 years and it was in force till the year 1999. The said agreement provided the reimbursement of (i) Variable Dearness Allowance (VDA), (ii) Fixed Dearness Allowance; (iii) Difference in increase in Basic Pay; (iv) Price

of Explosives 'and (v) Power Tariff. These agreements enabled the Petitioner Company to pay the higher rate of wages since India Cements reimbursed and enhanced the rate of wages. After 1999, no similar agreement came into existence and from the year 2000, the Company was no longer the bulk supplier to the India Cements factory of the India Cements Ltd. But because of the existing settlements, it was obliged to pay wages almost on lines applicable to mine of that type as was originally envisaged for the Cement Wage Board Award. After that the situation became worse and India Cements Ltd. started reducing the off take drastically from the Petitioner Company from 400 tonnes per day to 150 tonnes per day. On the other hand, the daily consumption of India Cements is understood to be 6000 tonnes per day of which the Petitioner's Company supply is only to the extent of 150 tonnes per day. Further, in the absence of any agreement the India Cements was not reimbursing the VDA and DA, etc. During the year between 2000—2004 being unable to pay the wages as per settlement, the Petitioner Company tried to persuade India Cements Ltd. to restore the practice of reimbursement of items mentioned above. But this effect went in vain and India Cements did not come forward to make payments as that of 1990 agreement. The disinclination of India Cements Ltd. to enter in an agreement with the Petitioner Company or obtaining supplies from the Petitioner Company and the refusal to grant the compensatory factors in payment of the price for the supplies made, constitutes that it will be wholly improper and unfair to treat the Petitioner Company as an establishment who is linked to the Cement Industry. At the time when the Petitioner was made a party to the said proceedings, 85% of the production of the, Petitioner Company was being supplied to 'India Cements Ltd. and now it is less than 37.5% which is less than 2% of the total requirement of India Cements Ltd. Therefore, the Petitioner Company continue to incur losses mainly for the reason that the wages paid by the company had no relation to its status as a lime stone not annexed to any Cement Factory in the manner contemplated by the original Cement Wage Board. Thus, for the last 4 years the Petitioner Company incurred losses to the tune of Rs. 16,02,683, Rs. 12,77,137 Rs. 18,15,220, Rs. 23,00,574 for the years from 2000-2004. Besides, India Cements shut down their plant on various dates which resulted in a total tonnage loss of 35,900 tonnes with a turnover loss of Rs. 65.00 lakhs. Therefore, the situation cannot continue in the interest of the survival of the Industry if the Petitioner Company continues to pay the exorbitant wages provided under the settlement between the Petitioner and the Union dated 1-1-2001. There can be no escape from the eventual closure of the establishment which will result in loss of employment of nearly 180 workmen. Further, due to severe financial crunch, the Petitioner Company was not able to carry on the development work in its quarry and as a result of which the Director of Mines Safety, Chennai vide its letter dated 16.09.2001 directed the Petitioner Company to close

down its Nellaithiruthu quarry. Further, the Employees Provident Fund Organization has issued a demand on 5-4-2004 for Rs. 9,86,973 towards damages and penalty for belated payment. Similarly, the LIC of India has sent a letter on 31-03-2003 demanding Rs. 50,38,527 towards the amount for 'gratuity. Further, it is also liable to pay a sum of Rs. 33.00 lakhs under one time settlement to IOB. The Petitioner is not able to meet these expenditures in view of the acute financial crunch. Under such circumstances and not able to bear the huge liability in paying the wages arising out of the settlement dated 1-1-2001, the Petitioner Company was constrained to send a letter to the Respondent Union terminating the agreement w.e.f. 1-4-2004. Under such circumstances, the Petitioner Company is now only in a position to pay the minimum wages applicable to the ordinary lime stone mines, just like hundreds of lime stone mine in the State which do not have substantial connection with a Cement factory. Hence, the Petitioner Company prays to pass an award that the decision of the Petitioner Company to pay minimum wages to its workers employed in the lime stone mines by terminating the settlement dated 1.1.2001 is legal and justified.

4. As against this, the Respondent Union in its Counter Statement alleged the Respondent Union is the only Union which represents the workmen employed in India Cements and also South India Mines and Mineral Industries viz. the Petitioner. The members of the Respondent Union are getting the wages and other benefits as that of employees working in the Cement Industries. The Petitioner Company had been making repeated attempts to get out of Cement Wage Board Arbitration Award in some pretext or other. The Petitioner Union all along alleged that they were not covered by the Arbitration Award passed by the Cement Industry on 11.7.1983 and they deliberately did not participate before the Board of Arbitration. After the award was passed, the petitioner chose to challenge in the Madras High Court and after its dismissal they preferred a Writ Appeal before the Division Bench which was also dismissed by the Hon'ble High Court. Then again they have filed a Special Leave Petition before the Hon'ble Supreme Court which was also dismissed by the highest Court. The Division Bench has clearly held the Wage Board Award still apply to the quarries throughout India whether the factories are in production are already in production or will come into production in future. The Petitioner Management cannot refuse to pay the wage as per the Cement Wage Board/Settlement as long as those settlements are in force. The Petitioner Company has not even terminated the settlement dated 1-1-2001. Therefore, under Section-19(2) of the I.D. Act, the settlement continues to bind all the parties so long as the settlement is not terminated. Therefore, their demand that they will pay the minimum wages is incompetent. The Petitioner Management not only not terminated the earlier settlement

but also not given a statutory notice under Section-9A of the I.D. Act. None of the reasons given by the Petitioner Company that they will not pay the Cement Wage Board Award/Settlement is tenable. Apart from the leasehold mines, the Petitioner Company holds freehold mines measuring 440 acres and they were operating four mining leases over that. The alleged 2100 tonnes supply to India Cements Ltd. also includes supplies from Krishna Mines and others. The Petitioner's Company contribution did not exceed 400 tonnes per day. After 1980, Krishna Mines was awarded separate contract by India Cements. It is not true to say that the first agreement in the year 1964 was only after the Cement Wage Board visited the quarries and recommended revision of wages. The Petitioner Company is bound to implement the Second Arbitration Award dated 20-07-1983 and pay wages accordingly and they cannot escape from their responsibility by stating that quantum of supplies to India Cements has gone down. Even for argument sake, the 1st party is no longer a bulk supplier to India Cements Ltd., the lime stone production has not declined and the cash inflow is still being maintained. The Chairman of South India Mines and Minerals is none other the brother of the Director of India Cements Ltd. The Petitioner Management is trying to escape from its responsibility of implementing the Cement Wage Board Award. With the low off take of cement grade lime stone to India Cements is well compensated by sale of other grades high value lime stones to different parties engaging in the manufacturing of Cement, Mineral Pulverising Plants, Glass, Paint, Paper Industries. The loss incurred cannot be cited for inability to pay wages. The Petitioner Company has been only asked to rectify certain violations under the Mines Act and Regulation by the Director of Mines Safety. Only because of mismanagement the liability has been increased. Hence, the Respondent prays to dismiss the claim as illegal and not maintainable.

5. Again the Petitioner in his Reply Counter alleged that the very notice dated 24-01-2004 is a clear notice under Section-9A of the 10 Act as well as the notice terminating the earlier settlement which in any event has come to an end on 31-03-2004. It is false to allege that the contribution by the Petitioner Company did not exceed 400 tonnes per day at any time. The references to the earlier proceedings including Wage Board Award and Supreme Court proceedings absolutely of no avail and of no relevance in the light of the series of settlements entered into between the Petitioner and the Respondent. The allegation that cash flow of Petitioner Company is maintained is false and misleading. It is also false to state that the Petitioner Company and the India Cements Ltd. are family concern. At any rate, the award of the Cement Wage Board has no application to the Petitioner Company at all. The rectification suggested by the Director of Mines Safety in Nellaithiruthu mines involves developmental work which requires huge investments for which the Petitioner

Company has no funds. The non-payment/belated payments of dues are only due to non-availability of funds and not by mismanagement as alleged by the Respondent. The principle of resjudicata has no application to the present case because the parties by their conduct has substituted the earlier Award and Order of Courts through series of settlements. Hence the Petitioner Company prays an award in their favour.

6. Points for determination are :

(i) Whether the decision of the Petitioner Company to pay minimum wages to the members of the Respondent Union by terminating the All India Cement Wage Settlement is legal and justified?

(ii) To what relief the Respondent Union/Workmen are entitled?

Point No. 1

7. Strangely in this case the Management is the petitioner. Accordingly, the Petitioner Management, the petitioner is the Public Limited Company engaged in quarrying lime stones since 1951. As substantial portion of its limestone at the inception was supplied to the Cement Manufacturing Company called India Cements Ltd. under various agreements entered from time to time. The first agreement was in the year 1964 and the last such agreement was entered into on 24.10.1990 for a period of 10 years which expired in the year 1999. Though Cement Wage Board for fixing wages for employees in the Cement Industry was constituted and India Cements Ltd. being part of the Cement Industry was party to the proceedings before the first Cement Wage Board. In this case the petitioner was sought to be continued as a party in the said proceedings on the basis that the bulk of the production of the mines of the petitioner was supplied to Cement Industry viz. India Cements Ltd. The first settlement of the Cement Wage Board was passed in the year 1983 but the petitioner mines industry challenged the very applicability of the award passed by the Wage Board in the High Court which was dismissed and subsequently the Petitioner Mines Industry preferred a Writ Appeal which was also dismissed by the Division Bench and it has taken the matter to the Supreme Court by a Special Leave Petition but during the pendency of these proceedings. It entered into a settlement with the Respondent Union dated 1-6-1990 under 18(1) of the I.D. Act. However, over a period of years the Petitioner Management had entered into series of 18(1) settlements with the Respondent Union, independent of the settlement entered into between the Cement Manufacturers Association and the workmen of the cement industries. Therefore, the Cement Wage Board was not applied or adopted ipso facto in any of these settlements. Last such settlement was entered into between the petitioner and the Respondent Union on 1-1-2001. While so, the quantum off

take by the India Cements Ltd. came down progressively from 2100 tonnes per day to 400 tonnes per day during 1990. The agreement dated 24-09-1990 between the petitioner and India Cements Ltd. was for a period of 10 years and it was in force till 1999 which provided for off take at the rate of 400 tonnes per day. New agreement which provided the reimbursement of variable Dearness Allowance (VDA), Fixed Dearness Allowance (FDA), difference in increase in Basic Pay, Price of Explosives and power tariffs and these agreements alone enabled the Petitioner Company to pay higher rate of wages to the workmen. But after year 1999, no similar agreement came into existence and from the year 2000, the Petitioner Company was no longer bulk supplier to the Cement Industry viz. India Cements Ltd but because of the existing settlement dated 01-01-2001 the Petitioner Management was obliged to pay wages almost on the basis of applicable to a mine of that type as originally envisaged for the Cement Wage Board Award. Now, the India Cements Ltd's off take has dwindled to an extent of 150 tonnes per day and further in the absence of any agreement the India Cement Ltd. was not reimbursing all the allowances given by the Petitioner Company. Though, the Petitioner Company tried to persuade India Cements Ltd. to restore the practice of reimbursement, India Cements Ltd. did not come forward to make the payments. The Petitioner Company further contended that the First Wage Board was first constituted, and when the Petitioner Company was made party to the proceedings, 85% of the production of the Petitioner Company was being supplied to the India Cements Ltd. and now the supply was reduced to less than 37.5%. Therefore, the Petitioner Company incurred loss and during the year 2003-2004, the loss comes to Rs. 23,00,000/-. The situation has become unmanageable and, therefore, the petitioner has raised this dispute to pay minimum wages to the workers and terminated the settlement date 01-01-2001.

8. As against this, Respondent Union contended that the question is whether the employees of lime stone quarries who are supplying lime stone to the Cement Industry should pay as per the Cement Wage Board Award and the subsequent settlement or not. But it is already concluded by the High Court and Supreme Court judgements. Though, the Petitioner Management raised a contention that the principal buyer are now not buying the lime stone and the principal buyer are not willing to pay the increase in the cost of lime stone and, therefore, the Petitioner Management is now suffering loss but on that account they cannot refuse to pay the wage as per the Cement Wage Board Award settlement so long as those settlements are in force. The Petitioner Management has not even terminated the settlement dated 01-01-2001 entered into between the Petitioner and the Respondent Union under Section-19(2) of the I.D. Act and, therefore, the settlement continues to bind on the parties so long as

the settlement is not terminated and, therefore, the petitioner's demand that they will pay the minimum wages is incompetent and without jurisdiction. It is further contention of the Respondent Union that by raising the demand for minimum wage, the petitioner wants to alter the service condition of the workmen to their prejudice by stating that they will pay the minimum wages and not as per the Cement Wage Board/Settlements. Therefore, they will have to not only terminate the earlier settlement but also give a statutory notice under Section-9A of the ID Act. Since neither of which has been done and in the absence of any notice under Section-9A of the ID Act, the demand of the Petitioner Management is not sustainable in law. In this case, on behalf of the Petitioner Management, one Sri Rajagopal, the Executive Director of the Petitioner Management was examined as MW1 and 31 documents viz. EX.M1 to EX.M31 were marked through the Proof of Affidavit of MW1. On the side of the Respondent Union, one Mr. Yovan, the General Secretary of the Union is examined as WW1 and on the side of the Respondent Union, 16 documents viz. Ex.W1 to EX.W16 were marked. The Management witness viz. Rajagopal in his cross-examination admitted that at the time of First Wage Board, Supreme Court has held that the Wage Board Settlement is also applicable to lime stone mines and he has also admitted though they have given notice in the year 2001 but they have not given any notice under Section-9A of the ID Act and though the settlement dated 01-01-2001 viz. under EX.M8 is not in use, they continue to pay the same wages as mentioned in Ex.M8. He also stated that they have got four mining leases. Now they are operating only two mines and the other two mines are not in operation. It is stated that on behalf of the Respondent Union, though, there is no reduction in intake by India Cements Ltd., cash inflow has not been reduced in the Petitioner Management. In the Annual Report/Balance Sheet under Ex.M30, it is mentioned that the income from the sale of lime stone is Rs. 4,18,62,146/- and it represents sale of lime stone to India Cements Ltd. and also to other private parties. He admits that they are selling lime stone to private parties on higher price. It is his further evidence that India Cements Ltd. is taking lime stone from Koodangulam Atomic Power Station at free of cost for the past five years.

9. The learned counsel for the Respondent Union argued the Petitioner Management all along had been making repeated attempts to get out of the Cement Wage Board Arbitration Award in some pretext or other. At the first instance they contended that the arbitration was only confined only to cement manufacturing units and not with independent mines but it was negated by the High Court and Supreme Court. After that they

have taken this plea that the offtake was reduced by the India Cements Ltd. and, therefore, they no longer continued to pay the wage as per the Wage Board/Settlement. But the contention of the Petitioner Management that they cannot afford to pay as per the Cement Wage Board/Settlement has become resjudicata, since the High Court and Supreme Court have rejected the contention of the Petitioner Management and he further argued since the Petitioner Management has not terminated the settlement dated 01-01-2001 (Ex.M8) under Section-19(2) of the ID Act, it continues to bind all the parties and they cannot raise the dispute demanding that they will pay only the minimum wages and he relied on the ruling reported in 1986 1 LLJ SC 520 THE MONTHLY RATED WORKMEN OF INDIAN HUME PIPE COMPANY LTD. VS. INDIAN HUME PIPE COMPANY LTD., BOMBAY wherein the Supreme Court while considering the change in the slab system of Dearness Allowance which was in vogue for 18 years has held "question is often asked whether it would be advisable for Tribunals and Courts to revise the wage structure of the workmen to their prejudice when a dispute arise. Tribunals and Courts can take judicial notice of on fact and that is that the wages of workmen except in exceptionally rare case fall within the category of mere subsisting wages. That being so, it would be advisable to tinker with wage structure of the workmen except under compelling circumstances. Employers have seldom displayed a cooperative attitude where wage structure of workmen are devised. They have never showed a willingness for the involvement of the labour with the capital so as to engender a participative labour capital relationship. This is a reality that Tribunals and Courts have to reckon with. That being so, Courts and Tribunals have necessarily to keep their hands off from upsetting a wage structure that has satisfactorily worked for a long time. The sweat of the labour is never reflected in any balance sheet, although the latent force behind every successful industry in this sweat. With their present wage structure the labour just exist. No one should try to deny them even this bare source of existence". The learned counsel for the Respondent further relied on the ruling reported in 1999 4 LLN 1107, VOLTAS VOLKART EMPLOYEES UNION, MADRAS Vs. VOLTAS LTD., MADRAS wherein the Division Bench of the Madras High Court has held while deciding the fact when the Management deducted wages of the workers for Good Friday which was not included in the list of holidays, the Division Bench of the High Court has held "Section-9A of the ID Act is attracted in this case and its provision have to be fully complied with". He further alleged "as a result of finding that there is non-application of Section-9A of the ID Act, it follows that there is gross infringement of statutory provision and also the consequential violation of principles of

natural justice which should be sufficient to eliminate the objections on the ground of alternative remedy the situation has been brought about by the unilateral action of the Management and ignoring its statutory obligation under Section-9A of the Act. The need to remedy the situation is emergent and grave enough from the point of the Union who have not only been deprived of the accustomed holiday for Good Friday, but also are deprived of wages for that day". Taking reliance on this decision, the learned counsel for the Respondent argued neither the petitioner gave any notice under Section-19(2) of the ID Act nor notice under Section-9A of the ID Act and, therefore the demand of the Petitioner Management is not sustainable in law. He further relied on the ruling reported in 1981 1 LLJ 1 LIC Vs. D.J. BAHADUR AND OTHERS wherein while considering the question whether the amendment made by the LIC by substituting Clause-9 in the agreement is valid or not with regard to Bonus has held "the notification dated 26-05-1978 purporting to amend the Standardization Order is invalid and the newly enacted Regulation 58 does not affect the contract in respect of bonus embodied in the settlements of 1974 between the LIC and its "workmen" employees, effect must be given to that contract". But as against this, the learned counsel for the Petitioner Management argued even in the judgement 1981 1 LLJ 1, while considering the validity of the judgement "the core question that first falls for consideration is as to whether the Settlements of 1974 are still in force. There are three stages or phases with different legal effects in the life of an award or settlement. There is a specific period contractually or statutorily fixed as the period of operation. Thereafter, the award or settlement does not become non est but continues to be binding. This is the second chapter of legal efficacy but qualitatively different as we will presently show. Then comes the last phase. If notice of intention to terminate is given under Section-19(2) or 19(6) then the third stage opens where the award or the settlement does survive and is in force between the parties as a contract which has superceded the earlier contract and subsists until a new award or negotiated settlement takes its place. Like nature, law abhors a vacuum and even on the notice of termination under Section-19(2) or (19(6) sequence and consequence cannot be just void but a continuance of the earlier terms, but with liberty to both sides to raise disputes, negotiate settlements or seek a reference and award". In this case, though the Respondent alleged that the petitioner has not given any Section-9A notice, he has not taken this stand before the ALC(C). Further they have taken the stand that notice under 19(2) has not been given. Only in the Counter Statement, they have taken the stand and, therefore, it is valid. Further, as the Supreme Court has stated the Petitioner Management has raised a

dispute and the matter is pending in this Tribunal and, therefore an award cannot be passed under such circumstances. He further argued the circumstances clearly established only because the India Cements Ltd. has not taken the lime stone and the off take has been dwindled, the existence of company itself is in question. The Petitioner Management is not able to pay the wages as per the agreement and, therefore, they have raised this dispute demanding them to still pay the minimum wages to the workers as that of the ordinary mines in that place. He further argued though the Respondent Union argued the Wage Board and the settlement are still in force and they cannot reduce or alter the wage structure as per the Wage Board Award or settlement since the Petitioner Management has not followed Wage Board Award and it is party to the subsequent settlements or award, it cannot be said the Wage Board and the Supreme Court judgement is res judicata. Under the present circumstances, every year the loss to the Petitioner Management is increasing and, therefore, it is not possible for a Management to pay the same wage as per the settlement to the Respondent Workmen. Though, I find some force in the contention of the learned counsel for the Respondent even in the Writ Petition, the High Court has held it is not in dispute that the owners are also governed by the First Wage Board Award and it is also held that the Wage Board Award will apply to the quarries throughout India whether factories are already in production or will come into production in future and only on that ground the High Court and Supreme Court has dismissed the WP and the Special Leave Petition filed by the Petitioner Management. Further, in view of the fact that the Petitioner Management has not issued any statutory notice under Section-9(A) of the ID Act, I find the demand of the Petitioner Management is not sustainable in law. On this ground also the contention of the Petitioner Management cannot be considered. For all these reasons, I find this point against the Petitioner Management.

Point No. 2

10. The next point to be decided in this case to what relief the parties are entitled?

In view of my findings, the demand of the Petitioner Management is not legal and justified, I find the Respondent Union Workmen are entitled to the same wages now getting as per the settlement till a new settlement is entered into between the parties.

11. Thus, the reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 8th July, 2008)

K. JAYARAMAN, Presiding Officer

Witnesses Examined:

For the I Party/Petitioner : WW1 Sri Yovan

For the II Party/Mgmt. : MW1 Sri R. Rajagopal

Documents Marked :-

On the Petitioner's side

Ex. No.	Date	Description
Ex.W1	02-07-1985	Memorandum of Settlement
Ex. W2	20-07-1983	Gazette Notification
Ex.W3	31-07-1992	Memorandum of Settlement
Ex.W4	21-09-1992	Memorandum of Settlement [Sec.18(1) of the 10 Act, 1947]
Ex.W5	24-06-1996	Memorandum of Settlement [Sec.18(1) of the 10 Act, 1947]
Ex. W6	14-08-2000	Memorandum of Settlement
Ex.W7	01-01-2001	Memorandum of Settlement [Sec.18(1) of the ID Act, 1947]
Ex.W8	27-08-2001	Proceedings of the Director of Geology and Mining
Ex.W9	24-01-2004	Letter from South India Mines and Minerals Ltd.
Ex.W10	08-02-2005	Letter from South India Mines and Minerals Ltd.
Ex.W11	26-04-2005	Memorandum of Settlement
Ex.W12	-	Turn Over details
Ex. W13	15-10-2005	Notice sent to the 1st party from Ministry of Company Affairs
Ex.W14	16-02-2001	Details of strength of employees and the recurring expenses for the firm
Ex.W15	21-06-2001	Posting order of Sri K.S. Uthandaraman, Sr. Manager (Finance & Accounts) as Special Officer in Nellai Transports, Sankar Nagar
Ex.W16	19-05-2004	Letter to ALC(C) regarding reference of the dispute over 12(3) settlement under ID Act.

On the Management's side

Ex. No.	Date	Description
Ex.M1	22-05-1973	Agreement between the First Party and India Cements Limited
Ex.M2	02-05-1977	Agreement between the First Party and India Cements Limited
Ex.M3	04-01-1982	Agreement between the First Party and India Cements Limited
Ex.M4	24-09-1990	Agreement between the First Party and India Cements Limited
Ex.M5	01-06-1990	Memorandum of Settlement entered into between the First Party and the Second Party u/s 18(1) of the Industrial Disputes Act, 1947
Ex.M6	21-09-1992	Memorandum of Settlement entered into between the First Party and the Second Party u/s 18(1) of the Industrial Disputes Act, 1947

Ex.M7	20-09-1996	Memorandum of Settlement entered into between the First Party and the Second Party u/s 18(1) of the Industrial Disputes Act, 1947	Copies of Wage Registers for August 2000, August 2002 to August 2003
Ex.M8	01-01-2001	Memorandum of Settlement entered into between the First Party and the Second Party u/s 18(1) of the Industrial Disputes Act, 1947	Copies of Wage Registers for August 2005 to August 2006
Ex.M9	28-04-2003	Letter sent by the First Party to India Cements Ltd.	Ex.M28 - Limestone mining licences granted in the Tirunelveli District
Ex.M10	2000-2001	Annual Report of the First Party for the year 2000-2001	Ex.M29 - Photographs of machineries used by the First Party
Ex.M11	2001-2002	Annual Report of the First Party for the year 2001-2002	Ex.M30 - Annual Report of the First Party for the year 2004-2005
Ex.M12	2002-2003	Annual Report of the First Party for the year 2002-2003	Ex.M31 - Communications sent by Provident Fund Authorities
Ex.M13	2003-2004	Annual Report of the First Party for the year 2003-2004	नई दिल्ली, 12 अगस्त, 2008
Ex.M14	2000-2004	Letters sent by M/s India Cements Ltd. to the First Party	का. आ. 2516.—औद्योगिक विवाद अधिनियम, 1947
Ex.M15	16-09-2004	Letter from Director Mines Safety, Chennai Region to the First Party	(1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूनाइटेड स्टीवडोर्स एसोसिएशन (प्रा.) लि. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, इर्नाकुलम के पंचाट (संदर्भ सं. आई. डी. 303/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-8-2008 को प्राप्त हुआ था।
Ex.M16	05-04-2004	Letter sent by the EPF Organization, Sub-Regional Office, Tirunelveli to the First Party	[सं. एल-35011/7/98-आई आर(एम.)] कमल बाखरू, डेस्क अधिकारी
Ex.M17	31-03-2003	Letter from LIC to the First Party	New Delhi, the 12th August, 2008
Ex.M18	31-12-2003	Letter from the First Party to the Indian Overseas Bank	S.O. 2516.—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central Government hereby publishes the award (Ref. No. I. D. 303/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam, as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of United Stevedores Association (P) Ltd. and their workmen, received by the Central Government on 12-8-2008.
Ex.M19	24-01-2004	Letter from the First Party to the Second Party	[No. L-35011/7/98-IR(M)] KAMAL BAKHRU, Desk Officer
Ex.M20	04-02-2004	Letter from the Second Party to the First Party	ANNEXURE
Ex.M21	19-03-2004	Letter sent by the First Party to the Asstt. Commissioner (C), Madurai	BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM
Ex.M22	22-03-2004	Letter sent by the Second Party to the Asstt. Commissioner (C), Madurai	PRESENT
Ex.M23	01-01-1982	Copy of the Second Wage Board Award notified in the Gazette of Government of India	Shri P. L. Norbert, B. A., LL.B., Presiding Officer (Wednesday the 28th day of May 2008/7th Jaishta 1930)
Ex.M24	-	Communications between the First Party and M/s India Cements Ltd. regarding reimbursements Samples)	I. D. 303/2006 (I. D. 6/1999 of Labour Court, Ernakulam)
Ex.M25	28-07-1986	Copy of the Agreement between the First Party and M/s India Cements Ltd.	Union : The General Secretary, Cochin Port Trust Thozhilali Union, Opp. Ammonium Tank, 24/1652, Kochi. By Adv. Sri M. R. Sudheendran.
Ex.M26	-	Diesel bills from 1996 to 2006 (Samples)	
Ex.M27	-	Copy of Wage Registers for August 1996 to August 1998	

- Management :
1. The President,
United Stevedores Association(P)
Ltd.,
Indira Gandhi Road, Willington
Island,
Kochi-682 003.
 2. The Manager,
Hash and Company, Collis Building,
Venkitaraman Road,
Willington Island, Kochi-682 003.
By Adv. A. V. Xavier.

This case coming up for hearing on 19-5-2008, this Tribunal-cum-Labour Court on 28-5-2008 passed the following.

AWARD

This is a reference made under Section 10(1)(d) of Industrial Disputes Act. The reference is :

“Whether the action of the management of United Stevedores Association and Hash and Co., in retrenching the services of Shri C.J. Wilson and 30 others w.e.f. 01-04-1998 is legal and justified? If not, to what relief the workmen are entitled?

2. The facts of the case in brief are as follows:- The workmen are represented by Cochin Port Trust Thozhilali Union. They were working under different stevedores as high stacking workers known as Chikkar boys. They were engaged for container stuffing and de-stuffing in the Wharf. As per a memorandum of settlement arrived at before the Regional Labour Commissioner (Central) on 19-06-1993 between United Stevedores Association (USA) and M/s. Chakkiath Agencies and their workers represented by C.T.T.U., C.P.T.U. and C.P.L. Union, a High stacking workers pool was formed. On formation of the pool, Chikkar Boys working under different stevedores were brought under the pool and their service conditions were fixed. There were 80 Chikkar Boys at the time of formation of the pool. On 20-06-1993 a seniority list was drawn by U.S.A. Again on 18-3-98 another seniority list was drawn. On 31-03-1998 the first management USA terminated the service of 31 high stacking workers on the ground that there was no sufficient work. They were given compensation through the administrative agency, the 2nd management (Hash and Company). This action of the management is under challenge.

3. According to the union the termination of 31 workers is illegal as the 1st management has not followed the principle of ‘last come first go’. According to the union no proper seniority list was prepared by the first management (U.S.A.) The service of 31 workers prior to formation of pool was not taken into account while preparing the seniority list. They also contend that no such seniority list was published on the notice board. Even if a notice

was put up on notice board of 2nd management the workers who were working in the Wharf was not aware. Juniors to the workmen are retained in service. As per discussion between Cochin Port Trust and Union held on 29-04-95 the Cochin Port Trust had agreed to provide employment to pool workers by setting up a Container Freight Station (CFS) outside the port premises. Therefore the workers are entitled to be re-instated with consequential benefits.

4. According to the management it is at the request and demand of trade unions in Cochin Port that High stacking workers pool was formed by signing a settlement between U.S.A. and Unions. The present union was formed subsequent to the retrenchment of 31 workers in question. There were 80 workers at the time of formation of the pool. A seniority list was prepared and published before the retrenchment. The retrenchment was effected fully complying with the formalities prescribed under Industrial Disputes Act and Rules. The retrenched workers were junior most in the seniority list of 20-06-1993. This seniority list was furnished by the then existing 3 trade unions of the workers. On 18-03-1998 another seniority list was published on the notice board of 2nd management. The retrenchment was effected on 31-03-1998. The first management was not having records of previous service of workers under different stevedores when pool was formed. Nobody had raised any objection regarding the seniority list until the present dispute was raised by the union. The present union was not a party to the settlement of 19-06-1993 and the union was formed on 18-04-1998. The union has no locus-standi to raise the dispute. Nobody had raised any objection to the seniority list published either on 20-06-1993 or 18-03-1998. All the retrenched workers were offered compensation and 15 out of 61 workers had received compensation. The workers in question are not entitled for any relief much less re-instatement.

5. In the light of the above contentions the only point that arises for consideration is:

Is the termination legal?

The evidence consists of the oral testimony of WW 1 and documentary evidence of Exts.W-1 to W6 on the side of the union and MW1 and MW2 and Exts.M1 to M6 on the side of the management.

6. **The Point:** It is an admitted fact that High Stacking workers pool was formed as per an agreement dated 9-06-1993 reached between United Stevedores Association of Cochin (P) Ltd. and Trade Unions in the presence of Regional Labour Commissioner. The trade unions were clamoring for formation of a pool for providing uniform and adequate work to High Stacking Workers. On the next day on 20-06-1993 the first seniority list was prepared, copy of which is Ext.M 1.

According to the management the seniority list of 80 workers was prepared on the basis of the list provided by the then existing trade unions namely C.T.T.U., C.P.T.U. and C.P.L.U. At that time the present union was not yet formed. Ext.M1 is the list provided by unions to USA on 20-06-93. It is signed by all the three unions. The claimant union denies that this list was published in the notice board calling for objection of workers. But the 1st management contends that the seniority list was published in the notice board of the office of the 2nd management, the administrative agent of the 1st management. Since the unions had signed the seniority list it was enough for the employer to publish it on the notice board and it was unlikely that any of the workers would have objected, as the unions had supported the list and infact none of the workers or unions had raised any objection. There are no records also to show that any objection was raised by anyone. But the crucial seniority list is of 18-03-1998 which preceded the retrenchment of 31 workers. That list contains the names of 71 workers. It is admitted that some of the workers in the 1st list had died and others had retired by the time 2nd list was prepared. Hence there were only 71 workers as on 18-03-1998. Ext.M2 is copy of the list. This list is also challenged by the union on the ground that this list was neither provided by the unions nor published on the notice board by the management. Ext. M2 does not contain the signature of any of the office bearers of unions because it is a final list prepared by the management. In 1998 no list is seen furnished by the unions. Ext.M3 is produced to show that it was published on the notice board of 2nd management. Ext.M3 is the copy of letter sent to Assistant Labour Commissioner (C) enclosing a copy of seniority list of workers as on 18-03-1998 for the purpose of information and record. This was sent on 19-03-1998. Ext.M3(a) is copy of postal acknowledgement card showing the receipt of letter and enclosure by A.L.C. (C). It is also the case of the management that copies of seniority list were sent to the 3 Trade Unions then existing. Ext.M5, M5(a) and M5(b) are copies of letters addressed to the 3 Trade Unions informing them that a seniority list was enclosed along with a letter. Local Delivery Book (extract) of U.S.A. is produced to show copies of seniority list were sent to all the three Trade Unions. Besides the U.S.A. had asked their administrative agent, Hash and company to publish the list in their notice board. Copy of that letter is Ext.M5 dated 18-03-1998. Ext.M6 local delivery book shows the receipt of seniority list by Hash and company on 18-03-98. According to the union Ext.M3, copy of letter addressed to A.L.C. was corrected subsequently and the word 'exhibited' was inserted. This was done deliberately to show that the list was published on the Notice Board of Hash and company. But in fact it was not published. It is true

that the word 'exhibited' is typed above the line. If it is true it could be seen from the original letter sent to ALC. However copies of seniority list were sent to unions besides ALC on time. Unless the management had finalized the list, copies would not have been sent to unions. and ALC. The unions cannot pretend ignorance about the list. They raised no objection. 31 workers were retrenched thereafter. Still the unions did not question the validity of seniority list. Since the workers were members of unions, it has to be presumed that workers too accepted the list. The present union came to existence only on 13-04-1998 after the retrenchment and it is then that the workers in question became its members. It is thereafter that the list was challenged. As per rule 77 of the Industrial Disputes Central Rules the seniority list has to be published 7 days before the retrenchment. That was complied with by the management. As per list the junior most 31 persons were retrenched. This was done on the principle of 'last come first go' as required by S. 25-G of the I.D. Act. The 31 workers having not objected to the list either through their unions or individually before its finalisation they are estopped from doing so later by forming another union.

7. It was then pointed out by the learned counsel for the union that there is difference between 1993 list (Ext.M1) and 1998 list (Ext.M2). In the second list three new names are seen and their seniority position in Ext.M2 is 14, 17 and 21. It is alleged that the names of these three workers were added in the list by the management out of sheer personal interest. Therefore the list is not valid and genuine. It is submitted by the learned counsel for the management that in the first list these three workers must have been mentioned in their pet names and in the second list in their official names. However no records are produced to clear the doubt. At the same time it has to be said that nobody had raised any objection until the list was finalized. Any challenge thereafter is unsustainable. There is no procedural provision regarding preparation and finalization of seniority list. As per Rule 77 of I.D. Central Rules, 1957 a seniority list has to be prepared by the employer and a copy has to be put up on the notice board 7 days before the date of retrenchment. That was complied with by the management.

8. The issue referred for adjudication is the legality of termination of service of the workers. The seniority list as such is not challenged. May be it is an incidental issue for determining the dispute referred. But if the union was really aggrieved by the seniority list, the very issue regarding correctness of the list would have been one of the disputes referred. But here the retrenchment alone is challenged. If the principle of 'last come first go' is followed and S-25 F of ID Act is complied with, there is no violation of any provisions of ID Act or any settlement. I have mentioned that S-25G was followed when retrenchment was effected. They were offered compensation as envisaged under Section 25-F of I.D. Act (Ext.W3). Some of them received the compensation and others refused.

9. However, it was submitted by the learned counsel for the Union that the seniority list should have been prepared counting the previous service of the workmen before the formation of pool. The counsel submits so on the basis of the provision in clause 7 sub clause XIV of Ext.W2 memorandum of settlement. It stipulates that for the purpose of gratuity the service rendered by the High Stacking workers prior to the formation of the pool, shall be taken into consideration. MW 1 the Manager of 2nd management company in the cross examination admitted that at the time of retrenchment gratuity was given to senior workers as a lumpsum amount taking into account their previous service. But he is not able to say how long such workers had rendered service elsewhere for want of records (MW1 pages 10 & 11). At any rate the provision in the memorandum of settlement Ext.W2 referred supra is only for the purpose of determining gratuity and not for the purpose of preparing seniority list. There is no provision in Ext.W2 settlement regarding procedure for preparation of seniority list. According to the management the unions had provided a list of workers according to their seniority in 1993. The management had accepted it as the pool was formed only in 1993 and the workers were brought under 1st management employer in 1993 only. Managements also contend that many of the workers in question were working under different stevedores as casual workers. But neither the erstwhile Stevedore employers nor the unions have furnished records of such service to the 1st management. Some such firms are defunct and others even if running, may not find it easy to trace out very old records. It is for the union to get the records and produce them. Even then the fact remains that having finalized the list it is not proper to reopen the list without hearing the affected workers who are not in the party array.

10. For the reasons stated above I find that the termination of the service of 31 workers is in accordance with law and in compliance with Sections 25-G & F of I.D. Act.

In the result an award is passed finding that the action of the management in terminating the service of 31 workers is legal and justified and they are not entitled for any relief.

The award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 28th day of May, 2008.

P. L. NORBERT, Presiding Officer

Appendix

Witness for the union

WW1 - 07-04-2004 Shri Kunjumon Antony.

Witness for the Management :

MW1 - 04-10-2004 Shri P. A. Ameen.

MW2 - 19-06-2007 Shri O. M. Saifudeen.

Exhibits for the Union :

W1	-	Entry pass issued to Shri V. Kunjumon.
W2	19-06-93	Photostat copy of Memorandum of Settlement before the RLC(C).
W3	31-03-98	Photostat copy of notice issued by the United Stevedores Association.
W4	26-08-98	Photostat copy of failure of conciliation report submitted by the ALC(C) before the Secretary, M/o.Labour.
W5	26-03-98	Retrenchment notice issued to Sri. George Paynter.
W6	21-10-97	Photostat copy of the proceedings and award of the Arbitrator.

Exhibits for the Management

M1	20-06-93	Photostat copy of seniority list drawn.
M2	18-3-93	Photostat copy of seniority list of High Stack Workers.
M3	18-03-98	Photostat copy of letter issued by the Assistant Secretary, United Stevedores Association to the ALC (C) regarding seniority.
M3(a)	-	Photostat copy of Acknowledgement Card.
M4	18-03-98	Photostat copy of letter issued by the Assistant Secretary, United Stevedores Association to M/s. Hash and Company regarding retrenchment of 31 High Stacking Workers.
M5	18-3-98	Photostat copy of letters issued by the Assistant Secretary United Stevedores Association to various Trade Unions regarding retrenchment of 31 High Stacking Workers.

M6	-	Photostat copy of relevant page of local delivery book of United Stevedores Association.
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3189 GI/08-10

नई दिल्ली, 12 अगस्त, 2008

का.आ. 2517.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. राजा ग्रेनाइट्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, इर्नाकुलम के पंचाट (संदर्भ संख्या आई. डी. सं. 14/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-8-2008 को प्राप्त हुआ था।

[सं. एल-29011/59/2005-आई आर(एम.)]

कमल बाखरू, डेस्क अधिकारी

New Delhi, the 12th August, 2008

S.O. 2517.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. I. D. No. 14/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Raja Granites and their workman, which was received by the Central Government on 12-8-2008.

[No. L-29011/59/2005-IR(M)]

KAMAL BAKHRU, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

PRESENT

Shri P.L. Norbert, B.A., LL.B., Presiding Officer

(Friday, the 25th day of July, 2008/3rd Sravana, 1930)

I. D. 14 OF 2006

Workman : V. V. Shanmughan,
S/o. Velayudhan,
Valiyaveetil House, Vengola P.O.,
Perumbavoor, Ernakulam.

By Adv. Sri. Alexander Joseph.

Management : E. V. Rajan, Proprietor,
M/s. Raja Granites, Quarry,
Vengola P.O., Perumbavoor.
By Adv. Shri Ashok B. Shenoy.

This case coming up in Adalath on 25-07-2008, this Tribunal cum-Labour Court on the same day passed the following:—

AWARD

This is a reference made under Section 10(1)(d) of Industrial Disputes Act questioning the legality of denial of employment and for reinstatement of the workman.

2. When the matter came up for evidence the parties expressed their willingness for a settlement. Hence the case was taken up in Lok Adalath.

3. In the Adalath the management agreed to pay a lump sum amount to the workman in full and final settlement of the claim and the workman agreed. In view of this settlement the workman does not want to proceed with the case.

In the result, an award is passed finding that the claim of the workman is fully satisfied in the light of the settlement arrived in Lok Adalath and the settlement signed by the parties will form part of the award.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 25th day of July, 2008.

Appendix

Nil

P. L. NORBERT, Presiding Officer

BEFORE THE CGIT-CUM-LABOUR COURT, ERNAKULAM

ID. No. 14/2006

The case was taken up in Adalath and negotiated for a settlement. The management agreed to pay all benefits due to the workman and the workman is satisfied with the suggestion of the management and agrees that the claim is fully satisfied.

Dated this the 25th day of July, 2008.

Petitioner/Workman : V. V. Shanmughan.

Sd/-

Respondent/Management

Sd/-

Counsel for Petitioner

Sd/-

Counsel for Respondent

Sd/-

Mediator

नई दिल्ली, 12 अगस्त, 2008

का.आ. 2518.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेववेली लिग्नाइट कॉर्पोरेशन लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या आई. डी. सं. 58/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-8-2008 को प्राप्त हुआ था।

[सं. एल-29011/3/2003-आई आर(एम.)]

कमल बाखरू, डेस्क अधिकारी

New Delhi, the 12th August, 2008

S.O. 2518.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government

hereby publishes the award (Ref. No. I. D. No. 58/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Neyveli Lignite Corporation Ltd. and their workman, which was received by the Central Government on 12-8-2008.

[No. L-29011/3/2003-IR (M)]

KAMAL BAKHRU, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Tuesday, the 24th June, 2008

PRESENT

K. Jayaraman, Presiding Officer

Industrial Dispute No. 58/2002

[In the matter of the dispute for adjudication under clause(d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Neyveli Lignite Corporation Ltd. and their workmen]

BETWEEN

The General Secretary, : 1st Party/Petitioner
NLC Workers Union.
Neyveli Lignite Corporation Ltd.,
Neyveli

And

The Director : 2nd Party/Respondent
Neyveli Lignite Corporation Ltd.,
Neyveli

Appearance:

For the Petitioner M/s. Hari Paranthaman,
Advocates

For the Management M/s. N.A.K. Sarma, Advocates

AWARD

The Central Government, Ministry of Labour vide its Order No. L-29011/3/2003-IR(M)] dated 14-06-2002 referred the following Industrial Dispute to this Tribunal for adjudication:

The schedule mentioned in that order is :

“Whether the claim of the union for regularization of the workmen engaged on contractual basis for the job of Conservancy and Scavenging is legal and justified and if not, to what relief the workmen are entitled to?”

2. After the receipt of Industrial Dispute, this Tribunal has numbered it as ID 58/2002 and issued notices to both sides. Both sides entered appearance through their Advocates and filed their Claim and Counter Statements respectively.

3. The allegations in the Claim Statement are briefly as follows:

The petitioner is a Trade Union and it is fighting for the cause of welfare of the workman employed in the Respondent Management. The Respondent is involved in mining of lignite coal, manufacture of electricity and fertilizers, etc. It has got 15,000 regular workman and about 7,000 contract labourers in the above operations and it has also got several factories and office buildings. The Respondent is also having a big township with thousands of residential quarters and hospital buildings and the township has about 20,000 residential quarters. For cleaning, sweeping, scavenging and maintenance of buildings, offices, roads, etc. the Respondent Management originally employed about 400 direct/regular workmen. But it employed them only upto the year 1990 and after that the Respondent started employing contract labourers for carrying out the above work. It is only to exploit the workmen with less wages and to deprive other benefits payable to the regular workmen. During 1990, a Society called Indco-Serve Cooperative Society was formed for the benefits of contract labourers and to save them from the exploitation by the private Contractors. Almost all the contract labourers who worked as contract labourers under the various individual Contractors became members of the said Society. During 1995, a settlement dated 01-05-1995 under Section-12(3) of the ID Act was entered into between the Respondent Management and the Joint Council of Unions wherein it was agreed to regularize all the contract labourers who were engaged through the above Indo-Serve Society in production units within a period of 5 years in a phased manner. They also agreed to hold discussions regarding regularization of contract labourers in the non-production units also. The Respondent Management in view of the agreement regularized about 2,500 contract labourers employed through the Society in the production units. The remaining workers number 2,000 are yet to be regularized by the Respondent. The Respondent is employing 72 workmen through Indco-Serve Society for carrying out the work of sweeping, cleaning and other conservancy work. Apart from that, it also started employing contract labourers through individual contractors. Thus, the Respondent was employing three kinds of workmen viz. regular workmen, Indco-Serve workers and private contract workers for carrying out the above said sweeping, cleaning and other conservancy works. But the wages paid to the workmen who are employed through Indco-Serve Society and through private contractors are very less. Though, the workmen who are employed through the Society and the private contractors are controlled and supervised by Health Inspectors and Health Officers of the Respondent Management, they have paid lesser amount. The allocation of and the area of work are also done by the Health Inspectors and the above work are perennial in nature and available throughout the year.

Though, the workmen were continuously employed for years together, they were not regularized by the Respondent Management. Therefore, the Petitioner Union took the cause and raised an Industrial Dispute with regard to the workmen and on the failure of conciliation, the matter was referred to this Tribunal for adjudication. The nature of work carried out by the workmen are regular, permanent and perennial in nature and it requires a minimum of 350 workmen and, therefore the said workmen are entitled for regularization. Only to deprive the wages and benefits available to regular workmen and to exploit the workmen with less wages, the Respondent Management started engaging initially through the Indco-Serve Society and individual contractors and now fully through the newly formed House Keeping Society. Therefore, the so-called contract entered into by the Respondent Management through the Indco-Serve Society, individual contractors and the House Keeping Society is a sham and nominal arrangement and the so-called contract labour system is only a smoke screen and paper arrangement. Therefore, the action of the Respondent Management is arbitrary and colourable exercise of powers and it is also a unfair, labour practice. The Petitioner Union prays this Tribunal to pass an award to regularize all the contract labours engaged in doing conservancy and scavenging work and consequential benefits.

4. As against this, the Respondent in his Counter Statement alleged the Petitioner Union has no locus-standi to maintain the Industrial Dispute. The Petitioner Union has no significant membership of the contract workers deployed to work in the Respondent Corporation by the Contractors and on this account also the Petitioner Union is not competent in law to espouse the cause of the workmen and it lacks representative character. The Respondent Management has also not recognized the Petitioner Union in any manner. The Respondent Management has got health workers on its regular rolls, totaling 108. The main areas of work of these workers are distributed in Township's roads, sweeping, cleaning the surrounding and toilets of Corporation's premises and bungalows. Since the available work in the Respondent Corporation in these areas are not sufficient to engage more number of whole time workers, it did not regularize the workers. The Indco-Serve and Housicos Societies have come into existence mainly with the objective of preventing exploitation of contract labour engaged in contract work and house keeping and cleaning work by the private contractors. The above said societies supply conservancy and cleaning workers to the Respondent Management on labour contract basis and their members are paid wages as, fixed under the Minimum Wages Act and they are given other benefits such as PF by the Societies. The other contract workers are deployed by the Private Contractors in cleaning and other conservancy and sweeping works based on work-contract basis as well as on labour supply basis. The

above said Society workers and other Private Contractors carry out entirely different work in the Respondent Corporation than done by the regular health workers. They are doing work such as vegetation cleaning, debris removal, malaria oil spraying and other such non-perennial work mainly in the township area. The contract workers are deployed to attend to the cleaning and conservancy works other than the cleaning and conservancy works attended to by regular health workers of the Corporation. It is not correct to say that the contract workers and the regular workers are doing the same work. Further, the contract workers including the Indco-Serve and Housicos do not have full time work as regular health workers of the Respondent Corporation. By any stretch of imagination, it can be said that the contract system followed in the Respondent Corporation is sham or a mere ruse or camouflage to exploit the contract workers or a smoke-screen or a nominal or a paper contract. On the other hand, the contracts are genuine in nature. There is no relationship of employer and employee between the contract workers and the Respondent Management. Their engagement is not regulated under any rules of the Corporation pertaining to recruitment of regular workmen in terms of age, qualifications or other requirements process of the selection of other workers and they are also not liable to be transferred by the principal employer and the contract workers are not under the disciplinary control of the Respondent Management. Therefore, the Industrial Dispute is not maintainable. It is not true to say that the contract workers are controlled and supervised by the Respondent Management. It is only the Contractors who have employed them only supervise and control their men. The contract workers are not engaged in work of perennial and permanent nature and they have not been engaged them only supervise and control their men. The contract workers are not engaged in work of perennial and permanent nature and they have not been engaged in full time work. The said contract work is not prohibited under any enactment and, therefore, it cannot be said that the contract is sham and nominal. Therefore, the members of the Petitioner Union are not entitled to any legal right for absorption/regularization in the Respondent Management. The 12(3) settlement dated 18-05-1995 did not contemplate abolition of contract labour system and regularization of all contract workers, it only envisaged absorbing contract workers who are members of Indco-Serve Society depending on the requirements of the Corporation and based on various other parameters including a test and selection. Hence, for all these reasons the Respondent prays the claim is to be dismissed with costs.

6. The Respondent in its additional counter statement alleged that the Petitioner Union raising the Industrial Dispute on the sole ground of GO No. 2082, Labour and Employment Department, Government of Tamil Nadu dated 19-09-1988 which prohibits the employment of contract

labour in the processes of sweeping and scavenging in the establishment/factories employing 50 or more workmen. But even before the Conciliation Officer, the Respondent Authorities have clearly stated the appropriate Government with regard to Contract Labour (Regulation and Abolition) Act, 1970 is the Central Government and, therefore, the Tamil Nadu Government's prohibition notification in the above GO is not applicable to the Respondent. The reference made by the Govt. is incompetent by any law and is vitiated by total non-application of mind. Further, in the reference it is alleged for regularization of workmen engaged on contractual basis for the job of conservancy and scavenging but the claim of the Petitioner Union before the Conciliation Officer was about 129 numbers of contract workers purportedly engaged in conservancy and scavenging work to be regularized. Therefore, the Govt. ought to have referred the case of only 129 purported contract workers for adjudication and there is no material in making the order of reference embracing all the contract workers engaged in conservancy and scavenging work on contractual basis. Therefore, this ID is to be dismissed as not maintainable.

7. As against this, the Petitioner Union in its rejoinder alleged that though the Petitioner Union has made claim before the Conciliation Officer only with regard to available list of contract labour doing sweeping and scavenging work and it was never confined to any number of persons, therefore, the prayer of the Petitioner Union is correct and justified in demanding regularization of all contract workers doing sweeping and scavenging work. Further, the pleading before the Asstt. Labour Commissioner need not be in detail as it was only a formal one to initiate conciliation and to bring settlement. Though, the Tamil Nadu Govt. GO was cited as one of the reasons in support of the demand for regularization, it is not the only reason and, therefore, the Petitioner Union prays the validity and correctness of the reference cannot be challenged by the Respondent before this Tribunal and hence prays an award may be passed in favour of the workmen.

8. Points for determination are:

- (i) Whether the claim of the Petitioner Union for regularization of the workmen engaged on contract basis for the conservancy and scavenging is legal and justified?
- (ii) To what relief the workmen are entitled to?

Point No.1

9. It is a case for regularization of contract workers engaged in conservancy and scavenging work in the Neyveli Lignite Corporation. According to the petitioner originally upto the year 1990 all the workmen employed for carrying out conservancy and scavenging work in the Respondent Management were employed directly as regular workmen. Only after 1990, contract workers were employed in the Respondent Management due to regular vacancy

like death retirement, etc. According to the petitioner now about 350 workmen involved in conservancy and scavenging work and out of these, 120 are regular workers and the remaining were employed through Indco-Serve Society and Private Contractors. Further during May 2002 all the contract labourers who were doing conservancy and scavenging work were made members of the Society called House Keeping Society which is named as Housipos. The conservancy and scavenging work is a continuous work and they are continuously doing this work ranging from 8 years to 15 years irrespective of change of contractors. The petitioner alleged the action of the Second Party Management resorting to contract labourers for the permanent job is only with a view to bad intention to deny the same wages and other benefits available to regular workers. It amounts to forced labour and exploitation. Though, the Respondent alleged there is a contract agreement for supply of the contract labours for the work of conservancy and scavenging, the so-called contract labour system through Society is a sham and nominal arrangement and only to deprive the workmen of their legitimate rights and benefits it was entered into. It is only a smoke screen and paper arrangement. According to the petitioner, it is a colourable exercise of power and it amounts to unfair labour practice resorted by the Respondent Management. The petitioner further alleged the allocation of work, the control and supervision for both regular and contract labour are done by the Officers of the Respondent Management. In order to establish their case, on the side of Petitioner one Kuppaswamy, the General Secretary of the Petitioner Union is examined and 13 documents viz. Ex.W1 to Ex.W13 are marked on the side of the petitioner. But on the other hand, the Respondent Management first of all questioned the locus-standi of the Petitioner Union to represent and espouse the cause of the workmen. According to the Respondent, there is lack of representation and, therefore, the Petitioner Union is not competent to espouse the cause of the workmen. Apart from that, the Respondent alleged that he has got 11 Health Workers totalling about 108 doing the work of sweeping, cleaning of the surroundings and toilets of the Corporation Bungalows, cleaning the septic tanks and the Second Party Management does not require more number of workers for these area of work. For other conservancy and cleaning work, the Respondent Management deploys two types of workers through two Societies viz. Indco-Serve Society and Housicos Society. These societies were formed only to prevent the exploitation of contract labourers by the Private Contractors. It is further allegation of the Respondent that both the Societies are licensed contractors under the Contract Labour (Regulation and Abolition) Act and both Society members are doing the conservancy and scavenging work on labour contract basis. The other type of contract workers deployed by the Private Contract is also based on work contract as well as on labour supply basis. The work of the contract workers doing conservancy

and scavenging is different than that of regular Health Workers of the Respondent Management. The contract workers are doing work such as vegetation cleaning, debris removal, malaria oil spraying and other periodical work mainly in Township areas. The Respondent Management is also registered as a principal employer under the Contract Labour (Regulation and Abolition) Act. The Contractors are a separate, distinct legal entity as employers. They have got separate code for EPF contribution and they are independent bodies. Furthermore, the work entrusted to contract workers are not full time work, on the other hand, the work of the regular employees are full time. The contract entered into between the Respondent Corporation and the Society and also with the Private Contractors are genuine contract between the Contractors and the Respondent Management. There is no relationship between the contract workers and the Respondent Management. They are not under the control of the Respondent Corporation and no disciplinary action can be taken against the contract workers. According to the Respondent, with the advancement of mechanical and electrical aids in cleaning/sweeping processes, the requirement of full time job came down and they are not doing 8 hours duty on any given day. It is the further contention of Respondent, the order of reference referred by the Govt. is vitiated by total non-application of mind. The Govt. ought to have referred only 129 numbers of contract workers for adjudication, without applying its mind the Govt. referred the workmen engaged on contract basis for the job of conservancy and scavenging which is not the contention of the Petitioner Union before the Asstt. labour Commissioner and taking advantage of the wrong reference, the Petitioner Union has set up a total new case for all the contract workers as if he is the representative of all the contract workers and, therefore, the ID is not maintainable before this forum. But again the Petitioner Union raised a point that he never made any affirmation to any number of persons. Even assuming for argument sake that the petitioner has pleaded for only 129 workers, the pleading before the Asstt. labour Commissioner need not be in detail as it was only a formal one. Now, the validity of the reference cannot be challenged by the Respondent Management before this forum. On behalf of the Respondent, the Respondent examined one Thiagaraju who is working as Chief Manager (Personnel), NLC is examined as MW1 and on their side 8 documents viz. Ex.M1 to Ex.M8 are marked.

10. The learned counsel for the Petitioner contended though the Respondent Management alleged to have entered into a contract with the Housicos Society and also with the Private Contractor, neither the Special Officer of the Society nor the Private Contractor ever come to the place of the workspot. The contract workers who are doing conservancy and scavenging work are only supervised by the Officers of the Respondent Management and the work allotted to the said contract workers is only

the Officers of the Respondent Management. He also relied on the deposition of PW1 and MW1 with regard this contention. PW1 in his evidence has stated that the sweeping and scavenging work was allotted by the Health Inspector. The Health Inspector alone is marking the attendance for the said workers and the regular workers and the contract workers are doing the same work in conservancy and scavenging job. He further deposed the work of conservancy and scavenging are supervised by Maistries till about 5 years back but in due course the post was Maistry was abolished and only Health Inspector is supervising their work. He further deposed the Private Contractor or Society has no role in marking attendance or allotting work to conservancy and scavenging workers and the learned counsel relied on the deposition of MW1 in which he has stated that the Health Inspector will supervise the work of scavenging and sweeping in each division. The work of sweeping and scavenging will be done manually by those persons. Even today it is done by manually. The learned counsel further argued though the Respondent Management alleged sweeping and scavenging work are done by regular workers of NLC and only other works viz. debris removal and vegetation cleaning and allied work are done by Indeco-Serve and Housicos Society members, they have not produced any document to show that contract given to the Society is only for debris removal and vegetation cleaning. If really the Respondent Management has given scavenging and sweeping work to the Society, they can very well examine the Special Officer of the Society that the contract labours of the Society are only doing debris removal and vegetation cleaning, but, on the other hand except the ipse deposition of MW1, there is no other evidence to establish this fact. No doubt, the Respondent produced certain agreements entered into between the Society and Private Contractors but the Respondent Management has not produced all the agreements entered into with the Society and he has produced certain selected agreements to suit his convenience. The learned counsel for the petitioner further contended that it is admitted by MW1 that Health Inspector only supervises the work done by all the workers and Health Inspector will have a Chitta for noting whether a particular person has come for work or not and it is further admitted that the total number of working days will be calculated based on the Chitta and the same will be sent to the Society. From the evidence of MW1, it is clear that the allotment of work and the supervision of the work are only done by the Respondent Management and the agreement of contract is only a sham and nominal document. The Second Party Management alone has full control over the scavenging and sweeping works. Therefore, the action of the Respondent Management in engaging contract labours for the permanent and perennial nature of work is only to deny the rights and privileges to the contract labours which

amounts to unfair labour practice exercised by the Respondent Management and he further argued the members of the Petitioner Union are entitled to regularization in job.

11. But as against this, the learned counsel for the Respondent contended that WW1 in his deposition clearly admitted that the Societies viz. Indco-Serve and Howsicos have their own Standing Orders and Bye-laws and, therefore their workers are regulated by the Bye-laws and Standing Orders of the Society. It is also admitted by WW1 that wages to the member workers are duly paid by the Society and WW1 has admitted that Private Contractors are paying the contract workers employed by them. It is his further evidence that the Respondent Management floated open tenders for the contracts. Therefore, it is false to allege that the contract entered into by the Management is a sham and nominal one and these averments are made for the purpose of raising the Industrial Dispute. Though, WW1 has stated that their Union has raised ID 67/2002 before this Tribunal placing reliance on settlement 18-5-1995 for regularization of contract workers and stated that it is still pending on the file of this Tribunal. While so, he has not stated for what reason they have filed another Industrial Dispute in respect of conservancy and scavenging contract workers alone when a comprehensive dispute is pending for adjudication before this Tribunal, on that ground alone this ID is liable to be dismissed as not maintainable. The Respondent Management further alleged in order to maintain the above dispute, the Petitioner has made vague omnibus claims with no material in support of the same. It is further argued during cross-examination WW1 has admitted that the Respondent Management has no disciplinary control over the contract workers. WW1 has also admitted that the Society and Private Contractors have their own EPF code and though it is alleged that contract workers and Private Contractors are being paid less than the minimum wages, there is no evidence to substantiate this contention. As per the contract, all the Contractors have to pay the minimum wages fixed by the Corporation every year. The Contractors are engaged on work contract basis and on labour supply basis alone and the work given to the Contractors is not a perennial one and the labours are not doing the same work as done by the regular workman. Even from Ex.M1 to Ex.M8, it is clear that the contract is only for work contract or labour supply basis. The work allotted viz. vegetation cleaning, debris removal and malaria oil spraying and such other works are not perennial in nature, therefore, the claim of the Petitioner Union in the dispute is unfounded and unsustainable on facts. The contracts entered into with the Society as well as Private Contractors for the work is genuine and open one and under such circumstances, the petitioner cannot complain that the engagement of contract worker for the conservancy and scavenging is unfair labour practice and in violation of Article-14 and 15 of the Constitution. It is admitted that

there is no prohibition in employing contract workers for scavenging and sweeping. Therefore, employing contract workers for scavenging and sweeping work are open contract and cannot be questioned by the Petitioner Union and, therefore, the claim of the petitioner is without any basis. As there is no employer-employee relationship between the Respondent and the contract workers employed in the conservancy and scavenging works by the Private Contractors and the Society. This ID raised by the Petitioner Union is not maintainable. Merely because the contract workers are working as a contract worker for a long time, they are not entitled to any regularization because there is due process of selection envisaged under the relevant rules of the Second Party Management for recruitment. The members of the Petitioner Union are being employed on contractual basis, under such circumstances, the claim of the Petitioner Union for regularization is not maintainable under law. The learned counsel for the Respondent further relied on the ruling reported in JT 2006 4 SC 420 SECRETARY, STATE OF KARNATAKA AND OTHERS Vs. UMA DEVI AND OTHERS in which the Supreme Court categorically held that the temporary, casual and contractual employees are not entitled for regularization and, therefore, the petitioner is not entitled to any relief in this ID.

12. As against this, the learned counsel for the petitioner contended that the petitioners filed a petition for production of documents, the Respondent and the Society has produced certain documents. From the documents produced by the Respondent Management and the Society, it is clear that the contract workers have also worked in Township Industrial Area medical and other service units. From this it can be learnt that the contract workers and the regular workers are doing the same work. While the Society workers have worked more than 23-27 days in a month, the contract workers are doing the same work done by the regular workers. Therefore, it is false to allege that the work done by contract workers and regular workers are different. It is his further allegation that though the Respondent alleged that for the contract workers there is no full time work, it is proved false from the record produced by the Society and also from the Wage Register. Therefore, the petitioner is entitled for the relief prayed for. The learned counsel for the petitioner relied on some of the rulings reported by the Supreme Court and the High Courts, now we will see the rulings cited by the learned counsel for the petitioner one by one. The first ruling relied on by the learned counsel for the petitioner is reported in 1978 2 L.J. 397 Hussainbhai, Calicut Vs. Alath Factory Thozhilali Union and Others in which the Supreme Court while dealing with the contract labour and the relationship between the members employed and the contractor has stated "the true test may with brevity be indicated once again. Where a worker or group of workers labours to produce goods of services and these goods or services are for the business

of another, that other is, in fact the employer. He has economic control over the workers' subsistence, skill, and continued employment. If he for any reasons chokes off the workers is virtually laid off. The presence of intermediate contractors with whom alone the workers have immediate or direct relationship *ex contractu* is of no consequence when on lifting the veil or looking at the conspectus of factors governing employment, we discern the naked truth, though draped in perfect paper arrangement that the real employer is the Management and not the immediate contractor. Myriad devices, half hidden in fold after fold of legal form depending on the degree of concealment needed the type of industry, the local conditions and the like may be resorted to when labour legislations casts welfare obligations on the real employer based on Articles-38, 39, 42, 43 and 43A of the Constitution....." The next decision relied on by the learned counsel for the petitioner is reported in 2003 6 SCC 528 BHEL Vs. STATE OF UP AND OTHERS wherein the Supreme Court while dealing with employer-employee relationship with regard to contract labours has stated "engaging workmen through, intermediary but maintaining records of attendance and supervising their work through their own employees and when lifting the veil or looking at the conspectus of factors governing the employment will establish the involvement of contractor was merely fugative and sham".

13. The next decision relied on by the petitioner's counsel is reported in 1999 3 SEC 601 SECRETARY, HSEB Vs. SURESH AND OTHERS wherein the HSEB for maintaining their various plants and stations engaged contractors to keep the plants and stations clean, under such contract, one of the contractors was required to engage a certain minimum of Safai Karamcharis for cleaning the main plant building at Panipat for a period of one year and the services of Safai Karamcharis so engaged, terminated after they had worked for more than 240 days in the said establishment under the supervision and administration of the Board. When, he has raised a dispute it found the contractor is only a name lender and there was no genuine contract with him. It was held by the Sub-Court that the Safai Karamcharis were employees of the Board and it was upheld by the Supreme Court.

14. The learned counsel for the petitioner further relied on 1985 2 LLJ 4, THE WORKMEN OF FCI VS. FCI wherein it was held "the action of FCI introducing contract system so as to displace the contract service between the Corporation and the workmen would be illegal, invalid and ab initio void and such action would not alter, change or have any effect on the status of the workmen who had become employees of the Corporation as a result of direct payment system. Once some of the workmen became workmen" of the Corporation, it is not open to the Corporation to induct a contractor and treat its workmen as workmen of the contractor'. Relying on this decision, the learned counsel for the petitioner argued that the

supervision and control of the so-called contract workers are with the Second Respondent Management and, therefore, the agreement of contract is only a sham and nominal and only to deprive the legitimate rights of the contract labours, the Respondent Management has made all these make believe arrangement and, therefore, the concerned employees are entitled for the relief prayed for.

15. As against this, the learned counsel for the Respondent argued in Uma Devi's case, the full bench of the Supreme Court has clearly stated, "when a person enters a temporary employment or gets engagement as a contractual or casual worker and the engagement is not based on proper selection as recognized by the relevant rules or procedure, he is aware of the consequences of the appointment being temporary, casual or contractual in natured such person cannot invoke the theory of legitimate expectation for being confirmed in the post when an appointment to the post could be made only by following a proper procedure for selection and in concerned case, in consultation with the Public Service Commission. It further categorically stated it cannot also be held that the State has held out any promise while engaging these persons either to continue them where they are or to make them permanent. The State cannot constitutionally make such a promise. It is also obvious that the theory cannot be invoked to seek a positive relief of being made permanent in the post". In this case, the employees are admittedly contract labourers, therefore, they are not entitled to any regularization even though they alleged they are doing the work for number of years. The learned counsel for the Respondent further relied on the ruling reported in JT 2006 10 SC 265 GANGADHAR PILLAI VS. SIEMENS LTD. wherein the Supreme Court while considering the temporary employee entitled to claim regularization has held "wherein the Respondent Company executing various projects from time to time for erection, commissioning, etc. of plants and the Respondent Management appointing the appellant as Helper on temporary basis for a fixed period of the projects at different sites from time to time and every time when services were availed a standard letter of appointment issued setting out the terms and conditions, when the Respondent stopped undertaking such projects, the services of the appellant was dispensed with the and when the appellant raising an Industrial Dispute claiming regularization alleging adoption of unfair labour practice. The Tribunal dismissing the complainant and the High Court upheld the Tribunal's order and when the matter came up before the Supreme Court, it held "the practice of appointing the appellant on temporary basis for each project separately was a bona fide one, his intention was not to deprive the appellant of the benefit of a permanent status" and the Supreme Court refused to interfere in the orders of the Tribunal and the High Court.

16. The next decision relied on by the learned counsel for the Respondent is reported in JT 2006 10 SC 297 BHEL

Vs. ANIL AND OTHERS wherein the Respondents' engaged by a Contractor and rendering services to the appellant and the Respondent engaged in cleaning of appellant's campus and when the Respondents raising an Industrial Dispute upon termination of their services, the Labour Court directing the appellant to re-employment the Respondents either directly or through the contractor but the High Court held "that the appellant was principal employer since the Respondents has worked under its control and accordingly directly the appellant to reinstate the Respondents and while the matter came up before the Supreme Court, it set aside the decision of the High Court, and it held, "the Respondents were not direct workmen of the appellant company and the appellant had its own recognized union and the appellant never issued any appointment orders and, therefore, the order of the Industrial Court is a correct one".

17. The next decision relied on by the Respondent Management is reported in JT 2006 10 SC 383, KARNATAKA HANDLOOM DEVELOPMENT CORPORATION LTD. Vs. MAHADEVA LAXMAN RAVAL when the Supreme Court while considering whether an appointee employed contractually on seasonal work is entitled for regularization, the Supreme Court has held that "neither the Respondent was a workman nor the dispute in question amounted to an Industrial Dispute. The nature of the work being purely seasonal and the appointment of the Respondent being only contractual, it did not amount to retrenchment and, therefore, the Labour Court and the High Court erred in directing reinstatement".

18. The next decision relied on by the Respondent Management is the case reported in JT 2006 8 SC 504, SURENDRA PRASAD TIWARI Vs. U.P. RAJYA KRISHI UTPADAN MANDI PARISHAD AND OTHERS wherein the Supreme Court followed the Uma Devi's case and held, "on a careful analysis of the appointment orders, it is revealed that the appellant's contractual appointment was for a fixed term for carrying out the work of a specified project. The appellant was engaged from time to time to work in different project and the last contract ended on 14-10-91 and, thereafter, the appellant was not appointed. The appellant's appointment was purely a fixed term appointment. By no stretch of imagination it could be said that the appointment of the appellant was made while following the procedure as laid down under Article-14 and 16 of the Constitution" and the Supreme Court has held, "in view of the clear enunciation of law laid down in recent judgement of Uma Devi's case and other judgements we do 'not find any infirmity in the impugned judgement of the High Court'".

19. The next decision relied on by the Respondent Management is reported in JT 2006 11 SC 232, HARYANA STATE ELECTRONICS DEVELOPMENT CORPORATION LTD. Vs. MAMNI wherein the Supreme Court while considering whether the temporary appointee

has a right to be regularized has held, "since the Respondent having been appointed on ad-hoc basis was not entitled to claim regularization". In another case reported in JT 2006 11 SC 279, NATIONAL FERTILIZERS LTD. Vs. SOMVIR SINGH, the Supreme Court while considering a case for regularization has held, "in view of the authoritative pronouncement of the Constitution Bench in Uma Devi's case, the Respondent cannot claim regularization merely on the ground that they have been working for a long time, since they were not holding any post".

20. Then again the learned counsel for the Respondent contended the Respondent Management is a registered establishment under Contract Labour (Regulation and Abolition) Act and there is no prohibition in employing contract labours in cleaning and scavenging works. That apart the contractors engaged by the Respondent Management are also registered licensed contractors under the Contract Labour (Regulation and Abolition) Act and they are independent entities. Though the petitioner claims that the contract workers are doing the similar type of work as that of regular workman, the remedy before the Petitioner Union is before the authorities appointed under the Contract Labour (Regulation and Abolition) Act and since the Petitioner Union has got an alternative remedy the dispute raised before this Tribunal is not maintainable. Further, the Petitioner Union contended that they have no substantial following among the regular workmen and in the secret ballot conducted on 19-03-2001 as per the orders of the High Court the First Party Union secured only 287 votes out of 14887 votes and, therefore, the Respondent Management disputed the locus-standi of the Petitioner Union to raise the above Industrial Dispute. Further, the Petitioner Union raised this Industrial Dispute before the Asstt. Labour Commissioner (C) for regularizing of contract workers engaged in conservancy and scavenging works alongwith enclosing signed petitions for the purported contract workers numbering 129 and, therefore, the sole ground alleged by them is based on GO No. 2082, Labour and Employment Department, Government of Tamil Nadu dated 19-09-1988 which prohibits the employment of contract labours in the process of sweeping and scavenging in establishment/factories employing 50 or more workmen in which the Respondent Management has raised a contention that the appropriate Government with regard to the Respondent Corporation is the Central Government and Tamil Nadu Govt.'s prohibition is not applicable to the Respondent Corporation. While so, the reference made by the Government is with regard to claim of the Petitioner Union for regularization of workmen engaged on contractual basis for the job of conservancy and scavenging which is not the case of the Petitioner Union before the Asstt. Labour Commissioner (C), therefore, the order of reference by the Government itself is vitiated by total non-application of mind. The Government ought to have referred the case of 129 purported contract workmen

only for adjudication and the Government has no material before it in making an order of reference embracing all contract workers engaged in conservancy and scavenging work on contractual basis and, therefore, it is argued that the Industrial Dispute is not maintainable before this forum.

21. On consideration of the entire argument of learned counsel of both sides and also on perusal of records in this case, I am of the opinion that the petitioner though alleged that the contract entered into with the Respondent Management and the Society and also with the Private Contractors are sham and nominal, it is not established before this Court that the contract is sham and nominal though the Petitioner Union alleged that the contract labours are doing the same work as that of the regular workers, it is not established before this Tribunal. Further, though the Petitioner Union alleged that the control and allotment of work are with the Respondent Management with regard to contract workers, it is not established before this Tribunal that the control is with the Respondent Management. It is admitted by the Petitioner Union that payment is only made by the Society and also the Private Contractors. Under such circumstances, merely because the contract workers are doing the 'conservancy and scavenging works' in the Respondent Management for number of years, it cannot be said that they are entitled for regularization. As such, I find the point against the concerned employees.

Point No.2

The next point to be decided in this case is to what relief the contract workmen are entitled?

22. In view of my foregoing findings that the claim of the Petitioner Union for regularization of the contract workmen for the job of conservancy and scavenging is not legal and justified, I find the concerned employees are not entitled to any relief.

23. Thus, the reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 28th August, 2007)

K. JAYARAMAN, Presiding Officer

Witnesses Examined:

For the I Party/Petitioner : WW1 Sri P. Kuppuswamy
For the II Party/Management : MW1 Sri C. Thiagaraju

Documents Marked :

On the Petitioner's side

Ex. No.	Date	Description
Ex. W1	-	Map and details of Neyveli township
Ex. W2	18-05-1995	Copy of the settlement regarding regularization of contract labour

Ex. W3	14-09-1999	Dispute raised by the 1st party union alongwith representations from the workmen concerned
Ex. W4	11-12-2000	Remarks filed by the 2nd party
Ex. W5	-	Division-wise details of employment of sweepers and scavengers
Ex. W6	27-12-2000	Order in WP No. 1940/2004
Ex. W7	-	Membership list of the 1st party union
Ex. W8	-	Book No. 23 with regard to details of wages for the period 2002-2003 to regular direct employees of the Respondent Management working under Township Administration
Ex. W9	-	Book No. 23 with regard to details of wages for the period 2003-2004 to regular direct employees of the Respondent Management working under Township Administration
Ex. W10	-	Book No. 23 with regard to details of wages for the period 2000-01, 2001-02 & 2002-03 to regular employees of the Respondent Management working in other units other than Township
Ex. W11	-	Wage abstracts of Housicos Society Members in respect of sweeper/scavenger which consists of 8 books
Ex. W12	-	Wage Register from Indeco-Serve Society Members for the month of January, February and July 2002
Ex. W13	-	The Pay Bill Extract of Neyveli Lignite Corporation for 1991-92

On the Management's side

Ex. No.	Date	Description
Ex. M1	23-03-2001	Letter of Regional Labour Commissioner (Central), Chennai
Ex. M2	10-10-2002	Agreement with the Contractor
Ex. M3	25-07-2001	Agreement with the Contractor
Ex. M4	21-07-2001	Agreement with the Contractor
Ex. M5	17-07-2000	Agreement with the Contractor
Ex. M6	15-05-2001	Agreement with the Contractor
Ex. M7	18-05-1995	Section 12(3) settlement under the ID Act.
Ex. M8	19-04-2003	Agreement between NLC and Indeco-Serve

नई दिल्ली, 21 अगस्त, 2008

का.आ. 2519.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा 1 सितम्बर, 2008 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 (धारा-76 की उप धारा (1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध आन्ध्र प्रदेश राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

(क) नारायणरेड्डीपेट के सभी राजस्व गाँव (नेल्लोर ग्रामीण और इन्दुकुरूपेट मण्डल), नेल्लोर जिला।

(ख) जगदेवीपेट गाँव (इन्दुकुरूपेट मण्डल), नेल्लोर जिला।

[सं. एस-38013/40/2008-(एस.एस.-1)]

एस. दो. जेवियर, अवर सचिव

New Delhi, the 21st August, 2008

S.O. 2519.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st September, 2008 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI (except Sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Andhra Pradesh namely:—

"All the areas falling with in the Revenue Villages of Narayana Reddy pet (Nellore Rural & Indukurpet Mandal) of Nellore District and Jagadevipet Village (Indukurpet Mandal) of Nellore District, Andhra Pradesh."

[No. S-38013/40/2008-S.S-1]

S. D. XAVIER, Under Secy.

नई दिल्ली, 21 अगस्त, 2008

का.आ. 2520.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप धारा-(3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा 1 सितम्बर, 2008 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 (धारा-76 की उप धारा (1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध आन्ध्र प्रदेश राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

"आन्ध्र प्रदेश के नेल्लोर जिले के बुदानम राजस्व गाँव (चिल्लाकुर मण्डल)"

[सं. एस-38013/39/2008-(एस.एस.-1)]

एस. दो. जेवियर, अवर सचिव

New Delhi, the 21st August, 2008

S.O. 2520.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st September, 2008 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI (except Sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Andhra Pradesh namely:—

"All the areas falling with in the Revenue Villages of Bhudanām (Chillakuru Mandal) of Nellore District, Andhra Pradesh."

[No. S-38013/39/2008-S. S.-1]

S. D. XAVIER, Under Secy.

नई दिल्ली, 22 अगस्त, 2008

का.आ. 2521.—केन्द्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) - नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में निम्नलिखित कार्यालयों को, जिनके न्यूनतम 80 प्रतिशत कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है:—

क्रम संख्या कार्यालय का नाम

1. क्षेत्रीय श्रम आयुक्त (केन्द्रीय), भोपाल, मध्य प्रदेश
2. क्षेत्रीय श्रम आयुक्त (केन्द्रीय), बेल्लारी, कर्नाटक
3. सहायक श्रम आयुक्त (केन्द्रीय), छिदवाड़ा, मध्य प्रदेश
4. सहायक श्रम आयुक्त (केन्द्रीय), शहडोल, मध्य प्रदेश
5. सहायक श्रम आयुक्त (केन्द्रीय), मंगलूर, कर्नाटक
6. सहायक श्रम आयुक्त (केन्द्रीय), हुबली, कर्नाटक
7. सहायक श्रम आयुक्त (केन्द्रीय), चंद्रपुर, महाराष्ट्र
8. श्रम प्रवर्तन अधिकारी (केन्द्रीय), सतना, मध्य प्रदेश
9. श्रम प्रवर्तन अधिकारी (केन्द्रीय), इंदौर, मध्य प्रदेश
10. श्रम प्रवर्तन अधिकारी (केन्द्रीय), बालाघाट, मध्य प्रदेश
11. श्रम प्रवर्तन अधिकारी (केन्द्रीय), भुसावल, महाराष्ट्र
12. श्रम प्रवर्तन अधिकारी (केन्द्रीय), मैसूर, कर्नाटक
13. श्रम प्रवर्तन अधिकारी (केन्द्रीय), चित्रदुर्ग
14. श्रम प्रवर्तन अधिकारी (केन्द्रीय), गुलबर्गा, कर्नाटक
15. क्षेत्रीय कार्यालय, कर्मचारी राज्य बीमा निगम, देहरादून, उत्तराखंड

[सं. ई-11017/1/2006-रा.भा.नी.]

शारदा प्रसाद, संयुक्त सचिव

New Delhi, the 22nd August, 2008

S.O. 2521.— In pursuance of Sub-Rule (4) of Rule 10 of the Official Language (Use for official purposes of the Union), Rules, 1976 the Central Government hereby notifies following offices, at least 80% Staff whereof have acquired working knowledge of Hindi :—

Sl.No. Name of the Office

1. Regional Labour Commissioner (Central), Bhopal, M. P.
2. Regional Labour Commissioner (Central), Bellari, Karnataka
3. Assistant Labour Officer (Central), Chhindwada, M. P.
4. Assistant Labour Officer (Central), Shahdol, M. P.
5. Assistant Labour Officer (Central), Manglore, Karnataka
6. Assistant Labour Officer (Central), Hubli, Karnataka
7. Assistant Labour Officer (Central), Chandrapur, Maharashtra
8. Labour Enforcement Officer (Central), Satna, M. P.
9. Labour Enforcement Officer (Central), Indore, M. P.
10. Labour Enforcement Officer (Central), Balaghat, M. P.
11. Labour Enforcement Officer (Central), Bhusawal, Maharashtra
12. Labour Enforcement Officer (Central), Mysore, Karnataka
13. Labour Enforcement Officer (Central), Chitradurga
14. Labour Enforcement Officer (Central), Gulbarga, Karnataka
15. Regional Office, ESIC, Dehradun

[No. E-11017/1/2006-RBN]

SHARDA PRASAD, Jt. Secy.

नई दिल्ली, 26 अगस्त, 2008

का.आ. 2522.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कैनरा बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय इर्नाकुलम के पंचाट (संदर्भ सं. 306/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-8-2008 को प्राप्त हुआ था।

[सं. एल-12013/122/1998-आई आर(बी-11)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 26th August, 2008

S.O. 2522.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 306/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam as shown in the Annexure in the Industrial Dispute between the management of Canara Bank, and their workman, which was received by the Central Government on 13-8-2008.

[No. L-12013/122/1998-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

PRESENT

SHRI P.L. NORBERT, B.A., LL.B., PRESIDING
OFFICER

(Wednesday the 9th day of April, 2008/20th Chaitra 1930)

I.D. 306/ 2006

(I. D. 34/1999 of Labour Court, Ernakulam)

Union : The General Secretary,
Canara Bank Staff Union, 41/2201,
Ernakulam North,
Kochi - 682 018.

By Adv. Ashok B. Shenoy.

Management : The Regional Manager,
Canara Bank, Regional Office,
Karakkat Road, Kochi - 682 016.

By Adv. Sri. Raju Abraham Pulpara.

This case coming up for hearing on 31-03-2008, this Tribunal-cum-Labour Court on 09-04-2008 passed the following :

AWARD

This is a reference made under Section 10(1)(d) of Industrial Disputes Act. The reference is :—

“Whether the action of the management of Canara Bank, Cochin is justified in imposing the punishment of stoppage of increment on Sh. Joseph Seasor, Peon of Broadway Branch for one year with cumulative effect? If not, what relief the concerned workman is entitled to?”

2. Facts of the case in brief are as follows: — Sri. Joseph Seasor was Peon of Broadway branch of Canara Bank. On the allegation that he had misbehaved to Sr. Manager of the bank and refused to obey the directions of Officers of the bank the management initiated disciplinary action, conducted an enquiry and imposed a penalty of stoppage of increment for a period of one year with cumulative effect. This is under challenge.

3. According to the union which has taken up the cause of the workman the enquiry is vitiated for violation

of principles of natural justice. The enquiry was conducted by an Officer subordinate to the complainant and hence the Enquiry Officer was obliged to favour the complainant. The findings are perverse. The evidence on record was not properly appreciated by the Enquiry Officer. At any rate the punishment is disproportionate and harsh. The disciplinary Authority as well as the appellate authority have not properly analysed the findings of the Enquiry Officer.

4. According to the management the workman had refused to obey the directions of Officers and Managers of the bank. He shouted at the Sr. Manager and threatened him and abused him in the presence of other officers of the bank. A full fledged enquiry was conducted complying with the principles of natural justice, equity and fairplay. The list of documents and witnesses were furnished to the workman sufficiently early. Copies of documents were also given to him. The original documents were perused by the defence representative. The management witnesses were cross examined by the defence. The workman was given opportunity to adduce evidence. It is on the basis of the evidence on record that findings were entered by the Enquiry Officer. Copy of enquiry report was given to the workman. The disciplinary Authority gave him an opportunity for personal hearing. The Enquiry Officer was of the same rank as the complainant. The Disciplinary authority imposed the punishment taking into account the nature of the misconduct. There is no illegality in imposing the punishment. There is no reason to interfere with the punishment of the workman.

5. In the light of the above contentions and in view of the submissions of both sides the following points arise for consideration:—

1. Are the findings sustainable?
2. Is the punishment legal, proper and proportionate?

The evidence consists of the oral testimony of MW I and Ext. M I on the side of the management and no evidence on the side of union.

6. Point No. 1 : The misconduct alleged had taken place on 20-12-95 around 5.20 p.m. at Broadway branch of Canara Bank. Ext. M I is the enquiry file containing the oral and documentary evidence adduced before the Enquiry Officer. Ext. ME-1 is the charge sheet. The charge is that on 20-12-1995 around on 5.20 p.m. Smt. Sulabha V. Shenoy, an officer of the bank had asked the workman Sri. Joseph Seasor to bundle the cash packets and carry them to the strong room. He refused to do so. The matter was reported to Sr. Manager by Sulabha V. Shenoy along with R. Chithralekha. The Manager asked the workman to carry out the job entrusted to him by Smt. Sulabha V. Shenoy. But the workman refused to do. Thereupon Sr. Manager called the workman to his cabin and instructed him to carry

out the work. Instead of obeying instructions workman turned furious, shouted at the Sr. Manager in a threatening tone in Malayalam and flatly refused to carry out the work. This conduct is alleged to be willful disobedience of the lawful and reasonable orders of persons placed in authority and a misconduct as per Chapter-XI, Regulation 3, clause (d) of Canara Bank Service Code. It is also alleged to be a disorderly and indecent behaviour which is a gross misconduct as per Chapter XI, 5 regulation 3, Clause (k) of the Code. Besides, the conduct of the worker is alleged to be prejudicial to the interest of the bank within Clause (m) of the Code. According to the union though initially the workman was reluctant to carry out the instruction, subsequently he complied with the direction. Therefore it is submitted that there is no disobedience or insubordination as alleged by the management. It is true that the worker had carried out the work of bundling currency packets and placing them in strong room. But the evidence adduced before the Enquiry Officer reveals that he had first refused to perform the duty entrusted to him. MWs. 1 to 4 have given evidence that the workman had refused to do the work and had shouted at the Sr. Manager. It is after this incident that the worker had carried out the instruction. Ext. ME-3 is a reply of the workman to the memo of charges. It is relevant to note the following paragraphs of his reply. "After 5.45 p. m. when I was leaving Sr. Manager called me to his cabin and wanted to stitch the bundles. I expressed my grievances before him. Finally I obeyed his instructions and finished bundling. As the Senior Manager was in an angry mood, I also, in my anxiety to leave the office, replied to him in a similar tone. Afterwards, I felt sorry and expressed sincere regrets for my talk."

7. Ext. ME-11 is a statement given by the workman to the Investigating Officer. The statement is to the effect that on 20-12-1995 since his child was feeling unwell he was in a hurry to return home by 5.30 p.m. The cashier of the bank was late to hand over currency for the purpose of stitching and bundling. As a result he was not able to leave the office by 5.30 p.m. Due to this circumstance the worker was mentally upset and hence he had spoken to the Senior Manager in an angry tone. Resuming the composure he expressed his regrets to the Sr. Manager. This statement of the workman in Ext. ME-3 and 11 amply prove the fact that he had initially refused to perform the duty of bundling the cash packets and putting them in the strong room despite the repeated requests of the concerned officers including Sr. Manager. Had he obeyed the direction there was no occasion for him to loose temper and behave roughly to the Sr. Manager. Thus he had first disobeyed the direction and then mended his ways and carried out the direction. He had already committed the misconduct before carrying out the instruction. Therefore the contention of the learned counsel for the union that the

first part of the charge is unsustainable is meritless. It is a misconduct falling within Chapter XI, Regulation 3, Clause (d) of the Canara Bank Service Code.

8. The next allegation is that the workman had shouted at the Sr. Manager and threatened him and behaved roughly. The charge sheet Ext. ME-1 narrates the words spoken by the workman against the Sr. Manager. However the workman denies the utterances made mention in Ext. ME-1, but admits that he had talked in an angry manner to the Sr. Manager (Ext. ME-3 and 11). Ext. ME4 is a report sent from Broadway branch to the Deputy General Manager regarding the incident stating that the workman had shouted at the Sr. Manager in his cabin and talked in an indecent manner to him in the presence of Br. Manager and 3 other officers. The Manager of the bank is MW -1. The other 3 officers who were present in the cabin of Sr. Manager are MW3 to MW5, i.e. Smt R. Chithralekha, Officer (MW3), Smt. Sulabha V. Shenoy, Officer (MW4) and Smt. Nirmala S. Mallan, Spl. Assistant (MW5). MW1 to MW5 have supported the charge. According to the workman he had lost his control due to the circumstances that his child was sick and he had to return home at least after the normal duty hours at 5.30 p.m. Since the cashier was late to give cash, the bundling and packing work got delayed. It was at this juncture that he was asked to do the bundling and storing the currency notes. Hence he got wild and in the heat of the moment he spoke to the Sr. Manager in a high tone. But the workman had not informed anyone concerned (superior officers) that his child was sick and he had to leave at least by 5.30 p.m. Normally in case of such urgent needs the employee would seek permission to leave the office early. But the workman did not show any anxiety or emergency to return home. Assuming that the child was really sick and the workman was held up in the office due to the work, still he is not expected to misbehave to his superior officers. It may be true that he had to wait beyond office hours (5.30 p.m.) to carry out the job entrusted to him. But that is normal in an office, especially when there is workload. That is also no reason to get angry with superior officers.

9. DW-1 and DW-2 are employees of the same branch. They say that by 5.30 p.m. they had left the office and they have not heard what was spoken by the workman at the time of the incident. Whereas MWs. 2 to 5 were present inside the cabin of Sr. Manager. MW 2 to MW5 have supported the case of the management that the workman had shouted at the Sr. Manager and spoken in a threatening and indecent manner. Even if the words mentioned in Ext. ME-1 charge sheet were not the words uttered by the workman, still the admission in Ext. ME-3 and 11 adds strength to the case of the management that he had talked to the Sr. Manager roughly and in high tone, which is unbecoming of an employee and that too a sub staff. Exts. ME-3 and 11 alone are sufficient to say that the workman is

guilty. Still the Enquiry Officer has relied on the testimony of MW -1 to 5 to find that the workman has committed acts of willful insubordination, disobedience of the order of superiors and indecent behaviour which are prejudicial to the interest of the bank.

10. In the light of the reasons stated above I hold that the findings are founded on evidence on record and nothing persuade me to strike a different note.

11. Point No.2: The learned counsel for the union contends that if at all the workman is guilty of misconduct it is only a minor misconduct falling within clause 5(d) and (J) of Chapter XI of the Code (which is same as para 19.7(d) and (i) of 1st Bipartite Settlement). The contention is not sound as the behaviour of the workman was not mere discourteous but something more, namely willful insubordination and disobedience and indecent behaviour to a superior officer which are gross misconduct within Chapter XI, Regulation 3 of the Code. It is undoubtedly a gross misconduct. The penalty imposable are provided in Regulation 4 of the Code. The punishment imposed by the disciplinary authority stoppage of increment for a period of one year with cumulative effect. Regulation 4 (f) is the relevant provision which reads :

“Have his increment's stopped with or without cumulative effect”.

It is the discretionary power of the Disciplinary Authority to decide whether the increment should be stopped with or without cumulative effect. Thus there is no violation of any provision of service code or Bipartite Settlement. Since there is no violation of any provisions of law, and the penalty imposed is not one of dismissal or discharge, this court has no jurisdiction to interfere with the punishment. The position is clarified by His Lordship, S. Siri Jagan, J. in *Federal Bank Limited Vs. General Secretary, Federal Bank Staff Union* 2006(2) ILR (Ker) para 7.

In the result, an award is passed finding that the action of the management in imposing the punishment of stoppage of increment on the workman Sri Joseph Seasor for a period of one year with cumulative effect, is legal and justified and he is not entitled for any relief.

The award will come into force one month after its publication in the official gazette.

(Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 9th day of April, 2008.)

P. L. NORBERT, Presiding Officer

Appendix

Witness for the Management :

MW1 -24-11-2003 - Sri. K. Sasidharan

Exhibit for the Management :

M1 - Enquiry File.